



## DEPARTMENT OF THE TREASURY

Internal Revenue Service  
TE/GE EO Examinations  
1100 Commerce Street  
Dallas, TX 75424

**TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION**

Date: 4/9/2015

Release Number: **201609006**  
Release Date: 2/26/2016  
UIL Code: 501.03-00

**Taxpayer Identification Number:**

**Person to Contact:**

**Employee Identification Number:**

**Employee Telephone Number:**

(Phone)

(Fax)

LAST DATE FOR FILING A PETITION  
WITH THE TAX COURT: 7/8/2015

**CERTIFIED MAIL – Return Receipt Requested**

Dear :

This is a Final Adverse Determination Letter as to your exempt status under section 501(c)(3) of the Internal Revenue Code. Your exemption from Federal income tax under section 501(c)(3) of the code is hereby revoked effective January 1, 20XX.

Our adverse determination was made for the following reasons:

Organizations described in I.R.C. § 501(c)(3) and exempt under section 501(a) must be both organized and operated exclusively for exempt purposes. You have failed to produce documents or otherwise establish that you are operated exclusively for exempt purposes and that no part of your net earnings inures to the benefit of private shareholders or individuals. The manner in which you operate demonstrates you are operated primarily to further your insiders' business interests. Therefore, you are operated for a substantial nonexempt purpose. In addition, your operations further the private interest of the persons that finance your activities. Accordingly, you are not operated exclusively for an exempt purpose described in section 501 (c)(3).

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code.

You are required to file Federal income tax returns on Form 1120. If you have not already filed these returns and the agent has not provided you instructions for converting your previously filed Forms 990 to Forms 1120, you should file these income tax returns with the appropriate Service Center for the tax year ending December 31, 20XX and for all tax years thereafter in accordance with the instructions of the return. Processing of income tax returns and assessments of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.



If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of section 7428 of the Code in one of the following three venues: United States Tax Court, the United States Court of Federal Claims, or the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed before the 91st day after the date this determination was mailed to you if you wish to seek review of our determination. Please contact the clerk of the respective court for rules and the appropriate forms regarding filing petitions for declaratory judgment by referring to the enclosed Publication 892. Please note that the United States Tax Court is the only one of these courts where a declaratory judgment action can be pursued without the services of a lawyer. You may write to the courts at the following addresses:

United States Tax Court  
400 Second Street, NW  
Washington, DC 20217

US Court of Federal Claims  
717 Madison Place, NW  
Washington, DC 20005

U. S. District Court for the District of Columbia  
333 Constitution Ave., N.W.  
Washington, DC 20001

You also have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Taxpayer Advocate Service

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Margaret Von Lienen  
Director, EO Examinations

Enclosures:  
Publication 892



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## **ISSUES:**

Whether \_\_\_\_\_ is operated as a church within the meaning of sections 501(c)(3) and 170(b)(1)(A)(i) of the Internal Revenue Code.

Whether \_\_\_\_\_ is operated exclusively for any exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code.

## **FACTS:**

### **1. Organization**

The \_\_\_\_\_ (herein referred to as " ") was incorporated under the Nonprofit Corporation law on December 1, 19XX.

The Articles of Incorporation filed with Secretary of State of the State of \_\_\_\_\_ states the purposes for which \_\_\_\_\_ was formed are:

- (a) *The specific and primary purposes are to operate a church for religious purposes.*
- (b) *The general purposes and powers are:*

- (1) *To have and exercise all rights and powers conferred on nonprofit corporations under the laws of \_\_\_\_\_, including the power to contract, rent, buy or sell personal or real property, provided, however, that this corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the primary purposes of this corporation.*
- (2) *To unlock the spiritual potential of Christians in the three major institutions within our society ..the Home, the School, the Church. All of this potential must be designed and developed for the or such other individual as the Board of Directors may so designate.*

### **2. Form 1023 and exemption letter**

\_\_\_\_\_ filed Form 1023, *Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, on November 30, 19XX. \_\_\_\_\_ application available in the Internal Revenue Service's Administrative File was not the complete file. Part III, *Activities and Operational Information*, would have been reported on Page 2 of Form 1023, but that page was not retained so it is not possible to provide the narrative description of the activities as provided by \_\_\_\_\_.

Information provided on the Form 1023 included a response to Part III, Line 1, concerning sources of financial support. \_\_\_\_\_ specifically stated:



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- a) *Support of church & church activities will be from Tithes & Offerings, and gifts of the supporter of the church.*
- b) *and/or any similar educational institution will be supported by tuition which will be competitive with other schools of the same nature and purpose. This without discrimination to any race, color or creed.*

Form 1023, Part III, Line 4 requests information on the organization's governing body. responded by stating there were two members on the Board of Directors – (President, Director, Minister) and (Instructor, Director). Both were listed at the same address ( ).

The Articles of Incorporation filed with Secretary of State of the State of included a third Director, , at the same address as and .

On the basis of stated purpose and planned activities reported to the Internal Revenue Service (Service), was granted exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code (IRC) on March 7, 19XX. The Service further determined was not a private foundation within the meaning of IRC §509(a) of the Internal Revenue Code, because was an organization described in IRC §509(a)(1) and §170(b)(1)(A)(i).

The determination letter, Letter FL-1256, issued on March 7, 19XX stated purpose was as a church. The letter includes the requirement that if *"your purpose, character, or method of operation is changed, you must let us know so we can consider the effect of the change on your exempt status."*

No changes/amendments to the original Articles of Incorporation, governing documents or operations were reported to/filed with the Service.

### 3. Notice of church tax inquiry and responses

Information was available to support the reasonable belief that was not operating as a church and thus a letter was issued to on January 18, 20XX. This letter served as the notice of the beginning of a church tax inquiry (herein referred to as "NCTI") described in IRC §7611(a). During the church tax inquiry phase, a list of questions relevant to the inquiry was submitted to . The questions were provided to give the opportunity to satisfy all of the Service's concerns without an examination.

The questions were broken out into two sections – questions on information posted on website concerning its activities; and questions on claim of church status.

response was dated January 31, 20XX. The response was submitted by (herein referred to as " ") who signs the correspondence as Founder & Director,



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and President, . The response included a cover page and five tabs labeled:

- 1) Preface – Provided background on why was formed and information on the original founders – and ;
- 2) Questions and Answers – Restated the questions raised by the Service and provided answer to the questions;
- 3) Conclusion – Information in this section relates to Question #55 which requests to provide any additional information they wanted considered concerning their charitable and/or religious operations;
- 4) 20XX Vision for – This was provided in response to providing schools for the preparation of its ministers;
- 5) Study of Philemon – This was provided in response to having literature of its own.

Information for the first three of these sections is discussed in further detail throughout the document. The 20XX Vision for document was just some possible ideas, a vision statement, of potential future training for ministers and the creation of a *“community of five different charities that come together to share resources and synergistically amplify the effectiveness of one another in harmony”* and included the blending of *“financial profit centers into the picture to provide sustained economic support for the charities.”* This was just an idea and was never formed or pursued based on provided information. The Study of Philemon was a collection of previously published writings. It was noted that at the beginning of the document there was the annotation that this was a *“Study by , June-July, 19XX”*. This is not a current document/literature and no further discussion is warranted in this report about this write-up.

Preface – Some comments from included in this section state:

- *“The first thing you will notice is that the name ” is precisely correct in that there is no attempt to call it a church and it has no location associated with it.*
- *“...the ministry of has truly been life changing for many, adopting a true lifestyle change to become more, much more, charitable.*

#### Questions & Answers: Website Information

The Service reviewed information posted on website that indicated appeared to be engaged primarily in the commercial promotion of tax and wealth management strategies. Also, the information reviewed indicated was operating in a manner materially different from that described in Form 1023, *Application for Recognition of Exemption*, and I was no longer operating as a church described in IRC §170(b)(1)(A)(i). Therefore, questions were asked to obtain operational information.



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On website were several "structural charitable tools" including Integrated Auxiliary of a Church; International Charitable Corporation; Charitable Investment Trust; and Business Investment Trust. was requested to describe in detail each of these structural tools" and how operation and/or promotion of these "tools" supports charitable and/or religious purposes.

The response received from was incomplete and provided general statements that did not fully answer the questions. did not provide a detailed description on how any of the "structural charity tools" activities supported charitable and/or religious purposes. For example, in regards to what believes an Integrated Auxiliary is, response stated: *"From the church perspective, it does provide a fairly reasonable structural tool that can, and is often, used to expand the various ministries of a church. Don't forget for a second that the purpose is what really drives the need to have some structure to define who, what, why, where, when, how, etc. of any particular ministry, initiative, program, project, etc. The integrated auxiliary of a church just happens to be the IRS version of a structure for a sub-set of a church activity."*

The NCTI response concerning the International Charitable Corporation, Charitable Investment Trust, and Business Investment Trust structural charitable tools are included in the Administrative Record. For each "tool", did not provide the requested detailed description and failed to answer the question how the operation and/or promotion of these tools supported a charitable and/or religious purposes.

was asked if any board members, officers, ministers, or key employees financially benefit from its operation and/or promotion of the above "structural tools". responded by stating:

*"No one associated with has any financial benefit from anything to do with any of the information on the website."*

This statement was contradicted by financial information provided for the audit. From the records reviewed, received some payments from individuals that were deposited into one of account. From the amount deposited, diverted % to % of the funds for the personal use of and his spouse . This is discussed more in-depth later in this report.

was asked if the organization at any time conveyed a portion of a cash gift or grant to entities controlled directly or indirectly by the donor of the funds. responded by stating, in part:

*"If the question being asked is: has anyone ever made a charitable contribution to , and took a charitable contribution deduction off his personal Income tax, and then forwarded those funds to an entity that was controlled by the donor of the charitable contribution? Then the answer is no, or at least not to the best of my knowledge. I can say this with a very high degree of confidence in that the process we would go through to get to the point where was involved was very elaborate and specifically designed with , a church in mind."*



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*"Remembering we always started with a purpose, or mission statement, and never with the "tool" that would eventually be used. For to become involved, the nature of the charity that was being proposed would need to fit into the purpose; by this I mean it would need to be something that a church would commonly get involved with. This would exclude many possibilities that the IRS would see as being charitable, but would not fit into the ministry of ."*

*"Then we would consider the practicality of what was the essence of the charity itself."  
"Only after we had a pretty good idea that something was actually going to work did we even begin to think about what structure would be best."*

*"If after all of this it was self evident that it would be a ministry that a church, would logically become involved with, then, and only then, did we start to consider a charity that would involve the IRS letter of determination as the sponsoring charity."*

The above statements appeared to address two issues – the outcome of funds donated to ; and situations in which may sponsor other organizations (possible through fiscal sponsorship). Information was secured in the audit that contradicted these statements. For example, information was received that some funds "donated" to were ultimately returned to the control of the "donor" and there appeared to be no oversight/control when deciding to fiscally sponsor an entity. The specific problems and findings with the disbursements are discussed later in this report.

On website were several organizations listed as integrated auxiliaries of . was asked to describe in detail each of these and was requested to explain how these programs supports charitable and/or religious purposes. provided a written response to each of the identified entities. Information provided by and the Services' comments are included in the Activities section of this report.

Given that the various initiatives of were conducted as integrated auxiliaries of , the Service requested details on rationale for claiming that the entities discussed above were "integrated auxiliaries" of . The NCTI response received stated, in part:

*"...the spirit of the question could best be answered, when we understood the essence of the integrated auxiliary we realized that we could structure several of the initiatives that we were working on as integrated auxiliaries. It would mean that those elements could be audited, which we really did not care about anyway."*

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Questions and Answers:      Claim of Church Status

The current Treasury Regulations do not define a "church" so the Service considers all the facts and circumstances in determining whether an organization is operating as a church. The Service was unable to find any information posted on      website or any other public website to confirm      operation as a church. Therefore, during the church tax inquiry phase a list of questions relevant to claim of church status was submitted to      .

            response, prepared and submitted by      , included, in part, the following:

- Mission:      stated the mission had never changed and it is: *"The core mission of      is to change lives for the good, that important expression of love, or charity. This should be the work of any and all churches. It is not about attending church, it is about a lifestyle change."*

- Creed:      stated the following in regards to their creed:

*"...the concept of "creed" is not found in scripture, it is something manufactured to call attention to the differences between various belief systems. Those of us who have studied theology are somewhat offended by any attempt to define by using differences."*

*"The Holy Bible is the inspired, only infallible, and authoritative Word of God, and is accepted as the final authority in all rules of faith and practice in life."*

*"Jesus Christ is the only divinely begotten Son of the living God."*

*"The Holy Spirit is a person who can and does indwell the life of each and every Christian."*

*"Basically, the Christian Church creed affirms the Father, Son and Holy Spirit as revealed in the Holy Bible. It sounds pretty simple until you get into it and start dealing with all of the teachings in the New Testament. Not to make fun of some of my elders, but I grew up in a church that had a catch phrase that actually pretty well sums it up: "The Bible says it, I believe it, and that settles it."*

- Formal Code of Doctrine:      stated the following in regards to their Code of Doctrine:

*"The best possible answer would be the Christian Church,      statement of faith, which is also my personal statement of faith."*

*"I believe the Holy Bible to be the inspired, only infallible authoritative Word of God and accept the Bible as the final authority in all rules of faith and practice in life."*

*"I believe that there is one God, eternally existent in three persons: Father Son, and the Holy Spirit."*



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*"I believe Jesus Christ to be the only divinely begotten Son of the Living God. I believe in His virgin birth, in His sinless life, in His miracles, In His atoning death through His shed blood, in His bodily resurrection, in His ascension to the right hand of the Father, and in His personal return to earth for His bride, The Church."*

*"I believe in the spiritual unity of believers in our Lord Jesus Christ."*

*"I believe in the present ministry of The Holy Spirit, by whose indwelling the Christian is enabled to live a Godly life."*

- Formal Code of Discipline: references *"scriptural disciplines"* and later states in part:

*"Understanding the \_\_\_\_\_ creed and doctrine, the only obvious place to find anything about a "code of discipline" would be found in the Scriptures."*

- Providing of Religious Services: In the response provided, \_\_\_\_\_ stated they provide services and stated, in part: *"One of the \_\_\_\_\_ groups, \_\_\_\_\_ co-hosts an online prayer and meditation service every Wednesday at 7:00 pm (Eastern), conducted by Minister \_\_\_\_\_ in \_\_\_\_\_. It is a Google Plus based format, open to anyone across the world. It is unknown how many people attend this format; it could be tens of thousands."*

The Service's question was actually a multi-part question and asked specifically for detailed information. The answers provided by \_\_\_\_\_ did not fully address the questions – i.e. no real details were provided on the Wednesday services; no physical/street address provided for any facility; and \_\_\_\_\_ was very non-specific in the number of people who participated in the on-line activity which could be tracked by the number of visitors to the site.

After receiving the response from \_\_\_\_\_, in March 20XX, conducted a review of this group's website located at [http://\\_\\_\\_\\_\\_.org/](http://_____.org/). At that time, the website included the statements: *"\_\_\_\_\_ is a 501(c)(3) non profit ministry of \_\_\_\_\_. We inspire you to take action."* In addition, the website for this "group" mentioned on Wednesday there was a weekly show on "\_\_\_\_\_ " called "\_\_\_\_\_ with \_\_\_\_\_" (also known as \_\_\_\_\_). Stated on the website – *"\_\_\_\_\_."*

A more current review, November 20XX, of this same website did not mention any radio show/broadcast. In checking the archives of the website, in August 20XX there was the annotation of: *"Please join our community. Not only will you be showing your support you will receive our newsletter once a month with stories that will warm your heart and feel your soul."*

\_\_\_\_\_ website did not reflect the offering of any religious services.



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, currently located in , does not have a physical location for the conduct of religious services. response to the NCTI included a comment in the Preface which specifically stated:

*"The first thing you will notice is that the name " is precisely correct in that there is no attempt to call it a church and it has no location associated with it."*

- Distinct Body of Members (i.e. members who do not belong to or attend other churches and/or fellowship): stated they had a distinct body of members.

During the audit, testimony was provided by and , both attended another church in . Also, another individual listed as an officer, (herein referred to as " "), was interviewed and indicated he was a member of another church in . During the course of the examination, no one acknowledged being a member of and attending services held by .

- Formal Membership Requirements: stated they have membership requirements, but provided no details. As mentioned above, during the course of the examination, no one acknowledged being a member of .

- Meetings Held for Members: stated they hold meeting for their members and provided the following statements concerning the meetings:

a) Frequency of Meetings – *"Meetings of this nature are frequent, even several times a day. There is no schedule of meetings, they occur in the natural conduct of ministry activities."*

b) Meeting Location – *"On the simple end of the spectrum, a meeting could be as simple as a phone call, of which there would be several each day. Somewhat more complicated and formal would be a conference meeting on the phone, where several people are given the time and number to call into."*

c) Nature/Purpose of Meetings with Your Members – provided three statements in regards to the nature/purpose of the meeting with its members. This included:

*"Normally we are always trying to assist others in their more charitable walk, or project they are trying to work with."*

*"Fundraising is always important, the vast majority of the meetings I will be involved with could be considered as meetings as to how to fund a particular ministry or mission."*

*"The nature of these meetings would be to define what truly is a charitable project, one which we, as (a church), could and would be proud of and support as an outreach ministry. The ministry of lifestyle change is not easy."*



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- Operate within or as part of any other church or fellowship organization: responded by stating: "Yes, *is part of a larger group of independent Christian Churches. The national convention is the*."

When the financial records were reviewed, there was no indication that anyone with attended the annual national convention of the during the audit year.

- Ordained ministers: responded by stating had ordained ministers and the response provided by went on to state "I was ordained on June 14<sup>th</sup>, 19XX".

did not answer the part of the question concerning if ordained ministers are selected after completing school or other prescribed studies.

In reviewing professional experience listed on his resume posted on the website<sup>1</sup>, does not mention his ordination as a minister. resume states: "As a fund raiser for , performed extensive research and development in the area of charitable corporations. His research included both the legal and tax aspects of using a charitable corporation for estate planning purposes and to fund charities, particularly . In addition to extensive lecturing, he has authored a significant number of documents on charitable corporations, and founded a consulting company providing support for charitable corporations."

- Inquired as to the number of baptisms, weddings, and funerals conducted in 20XX. responded on behalf of and stated:

"The last wedding I preformed was on March 12, 20XX. I did not conduct any baptisms, weddings or funerals in 20XX. I am scheduled to conduct a memorial service in early February for one of our members who passed away last year."

- Requested information on who is authorized to perform sacerdotal (i.e. priestly) activities for and/or on behalf of . response stated and were authorized.

was interviewed as part of the audit and he stated he did not perform sacerdotal activities and was not authorized to perform these duties. stated he was a member of another church in , and was not involved with as a church. Other information concerning is discussed under Officers/Board of Directors later in this report.

<sup>1</sup> resume posted on website was shared with when the Notice of Church Tax Examination (NCTE) was issued on April 12, 20XX.



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- Fees for the Sacerdotal Activities: No fees were charged per .
- Questions were asked concerning clergy. As stated in the written questions submitted to during the church tax inquiry phase, the term "clergy" includes, but is not limited to, clergymen, clerics, parsons, preachers, reverends, and ministers. Specific questions asked and answer provided by included:

a) How do the individuals who want to become part of clergy become associated with ? responded by stating:

*"They would need to be presented to the Board of Directors and then hired for the job. In some, but not all, cases there may be a laying of hands on an individual or couple as an indication of the church's embracement of their particular ministry."*

b) Who worked for , as a member of its clergy, during 20XX?

responded by stating only clergy members were and  
job title was "President & Director of "; his duties included  
"Shepherding"; and his responsibilities included "Assisting in lifestyle change".  
job title was "President and Director"; duties included "Providing executive leadership and organizational oversight"; and his responsibilities included "Administrative oversight and program development". Both of these individuals allegedly were working "40+" hours per week.

As shown above, lists the title of "President" for both of these individuals. Officers are discussed more in-depth later in this report.

c) What is the educational and religious background of each member of clergy? response, submitted by , stated, in part:

*"I grew up in the Christian Church, only knowing very few times when Dad was not the minister."*

*"I attended Bible College in ; I did not graduate, but rather left after two years and went to work for when I was 27 (19XX)."*

*"During the 19XXs and early 19XXs I worked my way up through the ranks of the to their advanced program in the 19XXs."*

*"Then I spent the next 5 years working and studying within before I was ordained in 19XX."*

*"I have spent most of my life as a student and teacher, having taught in several Christian and Baptist Churches prior to 19XX."*



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No information is provided on the 2<sup>nd</sup> listed clergy person ( )

d) Does offer and/or provide educational courses and/or training for its clergy?  
response stated:

*"No, does not provide educational courses or training for the clergy.  
The typical model is the systems of Bible Colleges around the country."*

- Inquired about literature relating to its religious beliefs, doctrines, codes of doctrine and discipline, and/or religious services, etc. response stated:

*"Typically none of the Christian Churches generate any specific literature of their own. The message is really to look to the Bible as the only authority."*

*"However, as a student and teacher I have crafted various studies that I have used as a teaching aid. From time to time it does come to me to include these writings as part of the web site."*

- Inquired about offering religious instruction (e.g. Sunday schools) for younger members.  
response stated: " does not offer anything that could be thought of as Sunday school for youth."

- Inquired who within is responsible for religious or doctrinal decisions (e.g. board of directors, ministers, etc.). response stated:

*"The governance of has always been a small Board of Directors, primarily the founders, , and . Around the end of the 19XXs, both and resigned from the Board of Directors."*

*"During the rebuilding years, which continue to this day, was added to the Board of Directors as the company Secretary and Treasurer."*

*"Due to some personal problems in his life... and a conviction that he was unfit to be the President of , stepped down as the President and assumed the position as the President of in 20XX.  
and his wife are both members of the Board of Directors."*

The information provided by does not answer the question of who is responsible for religious or doctrinal decisions, but does provide information that very few individual were involved in the oversight and control of . After parents ( and ) resigned from the Board of Directors in the late 19XXs, from the response received, may have been the sole person running the organization.



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- Inquired about the current Board of Directors' Members, Officers, Trustee and/or Key Employees. responded by stating was "President/Director" working "40+" hours per week; his spouse ( ) was a "Director" working "Less than 5 hours a week"; was "Founder and Director" working "40+" hours per week; and was "Corporate Secretary and Director" working "40+" hours per week.
- Inquired about former Board of Directors' Members, Officers, Trustee and/or Key Employees who served during 20XX and 20XX. responded by providing the same four individuals' name, titles, duties, responsibilities, etc.
- Inquired how members of board of directors and/or board of trustees were appointed, selected, and/or elected. written statement stated: "The Board of Directors replace themselves by a majority vote of the existing board members."
- If not controlled by the Board of Directors, inquired who controlled operations? response stated: "There is no other controlling individual or entities other than the Board of Directors."
- Inquired procedures, if any, were in place to ensure that members of its clergy, staff members, employees, and/or volunteers, if any, did not utilize funds and/or its assets for their private benefit: response stated that there were no procedures in place since "...there has never been a need for any procedures as the funding available has never been significant enough to warrant any real concern. All of the directors pretty much work on a volunteer basis, often contributing monies to keep on keeping on."
- Employment Tax Filing for period ending, December 31, 20XX: response stated: "No employment tax forms have been filed by . Any distributions of cash to anyone working with or associated with has not even been enough to cover basic operating expenses."
- Inquired who was responsible for distributing checks and maintaining its accounting records during 20XX. responded by stating this was handled by and
- Inquired if (and/or any individuals and/or entities acting on its behalf) enter into any employment contracts or agreements with any members of its clergy, its staff and/or its employees: response stated "During the early days of , the 19XXs, there was an agreement with ."

"Basically the essence of the agreement was to reimburse out-of-pocket expenditures that were spent doing something associated with . This would include all automobile expenses, including any rent or lease, gas, oil, insurance, etc. Any travel



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*expenses, lodging, food, air, bus, etc. Regular office related expenses, computer, copy, office supplies, etc. And, full health care as a paid benefit. Then there was a monthly stipend living allowance of \$ that would be paid if available, which has rarely been paid. The expenses themselves are rarely reimbursed."*

stated no documents are current available to reflect the agreement.

- Concerning an Employee Handbook and/or Employee Policy Manuals: responded by stating no such documents exist.
- Inquired about business address and the nature of the business office space and/or facilities. Specifically, requested information on the street address; a description of the office space; how the space is used; the number of people who work in the location; and inquired whether the location was used as a residence.

response provided the address of record ( , ) and stated "It is a postal mail box service".

No information was provided as to the actual physical address of the business nor was information provided on activities conducted in the space.

During the audit, it was determined there was no physical location for a church nor was there a business office. activities were conducted out to personal residence in an area which appeared to be the dining/living room. The activities conducted were not church activities, but rather activities related to the various programs/projects and "structural charity tools" discussed earlier in this report.

- Inquired about "business" records maintained by and specifically inquired about records relating to operations, which would include, among others, records relating to the activities of its board of directors, the donations received, title transfer documents, bills of sale, sales receipts, etc. response stated:

*" does keep good records of programs and what is being accomplished. There really just is not that much activity, it can easily be clearly articulated with a simple checking account register."*

- Inquired if filed IRS Form 8274 (Certification by Churches and Qualified Church Controlled Organizations Electing Exemption From Employer Social security and Medicare Taxes). response stated:

*"I am not sure; if it was filed, it would have been in the 19XXs or 19XXs. Please appreciate that I did not take a leadership position with until the mid to late 19XXs. It was actually 20XX when we realized that the only thing left of was the name and my being the sole remaining director."*



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Of interest, the response specifically stated in 20XX the only thing remaining was the name of the organization and \_\_\_\_\_ was the only remaining director. Also worthy of note, \_\_\_\_\_ response refers to \_\_\_\_\_ as a ministry or charity – not as a church. Although a ministry and/or charity would be exempt under IRC §501(c)(3), it would not be considered the same as a church under IRC §170(b)(1)(A)(i).

Additional information \_\_\_\_\_ wanted considered concerning their operations: The letter from the Service inquired if \_\_\_\_\_ had any additional Information for the Service to consider relating to charitable and/or religious operations.

In response to this question, \_\_\_\_\_ provided a written statement concerning \_\_\_\_\_ position on why they are a church. The following information is some of the statements provided by \_\_\_\_\_ :

*"Appreciating that when \_\_\_\_\_ was formed in 19XX, there was absolutely no consideration with how the IRS viewed a church, the only model that was used, and thought to be accurate, was the early Church as reflected in the book of Acts and then the many letters that the Apostle Paul wrote to the various Churches throughout the known world in the first century. What was considered as a true reflection of the true first century New Testament Church."*

*"I do not want to get into the complex discussion of what is a church and what is the Church, the answers are coming from two different places for two different purposes with two different visions and two different outcomes."*

*"I would simply ask for a grace period long enough for us to focus on the IRS characteristics of a church and bring \_\_\_\_\_ in to full and complete compliance. My suggestion would be for a grace period of one year after which time these issues would be revisited to more carefully examine the reality of \_\_\_\_\_ as a church within the understanding of the IRS."*

*"The reason I am asking for one year, even though we could accomplish the cosmetic enhancements more quickly, this reasonable time would give \_\_\_\_\_ sufficient time to demonstrate a viable track record. The evangelistic growth from a core group that is already in place today to a much larger membership. The expansion of the Board of Directors. The selection and recruitment of a quality qualified staff for new ministerial positions. The appropriate record keeping of ministry activities. The demonstration of weddings, baptisms and funerals, along with other measures of a church. We will have no struggle with the mechanics of being a church, virtually all of this work is either already in place or very easily developed or attained from quality sources. By mechanics I am thinking about what it takes in terms of meeting place, advertising, staffing, etc."*



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*"In reviewing Louthian and Miller, 'Defining 'Church' -The Concept of a Congregation'<sup>2</sup> circa 1994, I had not realized just how important the criterion of the concept of a congregation actually was to the IRS, nor was I aware of exactly what the IRS would consider as being a congregation. With this newfound understanding (for me) it is now more evident than ever what needs to be accomplished to fully comply with the vision of the IRS with respect to identifying what is a church."*

response then goes through the fourteen (or fifteen) points (criteria) discussed in the 1994 EO CPE article and states what they plan to change to address the points. A few of the points mentioned in this section of response provides additional insight/comments not addressed, or full addressed, earlier in this report. The following *italicized* information (which includes the response number provided by ) is some of the direct statements provided by

1. *A Formal Code of Doctrine and Discipline:*

*Currently looks to the Scripture to provide insight with respect to how to handle discipline issues within the Church. However this approach, where Scriptural, lacks the clarity and appreciation of those members as to what to expect in terms of corporate discipline, etc. could easily take the lead in adopting a more formal code of doctrine and discipline, which is sorely needed today as so many churches have drifted so far away from any reality of doctrine and discipline.*

6. *Membership Not Associated With Any Other Church or Denomination:*

*Currently there are several of us that consider our membership with , even though from time to time we have visited and worshiped with other groups. We have never places our membership with another group, congregation or denomination. Nor do any of us serve in any formal capacity with any other church or denomination.*

*would work out some wording and understanding that would be acceptable to both the IRS and not be in conflict with core Scriptural teaching.*

8. *Ordained Ministers selected After Completing Prescribed Studies:*

*Currently does have a standard of prescribed studies that are required. It took me almost 5 years before I was accepted as an ordained minister by , and I was one of the founders. The formalization of what is required to be a minister is absolutely no problem and quickly accomplished as it will be needed to hire the proper pulpit ministers.*

<sup>2</sup> This was from IRS's Exempt Organizations' 1994 EO CPE Text, Topic A, Defining "Church" available at [www.irs.gov](http://www.irs.gov).



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**10. Established Places of Worship:**

Currently \_\_\_\_\_ has not focused on a place of worship as it tends to distract from the core message of \_\_\_\_\_. One of the more significant concerns deals with the example of stewardship of resources. Church facilities tend to be underutilized and overly expensive in nature. It is hard, if not impossible, to proclaim a message to wise stewardship from the pulpit when the church campus is so obviously overly indulgent and wasteful. Even a modest rented facility is terribly expensive for the utilitarian value of what it is used for.

**11. Regular Congregations:**

Currently \_\_\_\_\_ does not focus on developing what would be considered a congregation, even though getting the message of being charitable and a significant change in lifestyle is a message that resonates and we have been extremely successful in broadcasting far and wide, our approach does not fit the model that the IRS is looking for.

But in my agreement that we would do everything necessary to fully comply with every characteristic appreciated by the IRS as being what would be considered as a church, we could easily and would have a regular congregation.

**12. Regular Religious services:**

Currently the type of religious service that is part of \_\_\_\_\_ tends to be of an evangelistic nature and not really what would be considered as a regular religious service. The focus of \_\_\_\_\_ really is better served with one-on-one more focused personal involvement with those individuals who have expressed a passion for being charitable and not really a larger regular religious service.

**13. Sunday Schools for Religious Instruction of the Young:**

Currently \_\_\_\_\_ does not really focus on younger people for the simple reason that what is needed is a lifestyle change and commitment to a life of dedicated service and charity. A message that tends to resonate better with adults, particularly older adults with an appreciation for needing to give back. This is really just a product of our experience more than a universal reality.

**15. Other Facts and Circumstances That May Bear Upon the Organization's Claim for Church Status:**

Currently it has been about message and what is the most efficient and effective methodology for getting that message out. And \_\_\_\_\_ being very supportive of the various members' lifestyle of commitment to charity. It is an extremely close reflection of the first century New Testament Church.



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*Surely could make a compelling argument that, even though a few of the characteristics that are expected by the IRS are not as present as would be desired by the IRS, on balance all things considered, Is truly a very real church and has always been. The message is even more Scriptural and Biblically based than the vast majority of what are considered by the IRS as being churches.*

*Given the rich traditions and Scriptural focus of looking for that life changing experience of becoming more charitable as a measure of that God-focused life, it would be impossible for the IRS to take the position that is not a church.*

*ends its response by providing a few statements about how they currently are a church and how a one-year grace period to further demonstrate the characteristics should be acceptable to the Service. Specifically, stated, in part:*

*It would seem on the surface, that is actually quite close to fully accomplishing all of the various characteristics that are considered by the IRS when determining if a faith based organization is a church or just another religious organization. It would not be all that difficult for to more fully comply with what is expected and accepted by the IRS.*

*As an indication of my serious commitment to completely satisfying the concerns of the IRS, I would also agree to remove any and all of the material found in the section of the web site to a commercial platform, a for profit corporation and for profit web site.*

*Where at this moment everything seems a bit cloudy, largely because adequate records are not available (they do not exist) for the Service to carefully examine and the protracted process of launching a full-fledged church examination is not going to provide any additional information that is not already being disclosed, it would seem that everyone would appreciate my proposed solution of a one-year grace period, where we would be able to accomplish and demonstrate several critical points, namely:*

*The IRS will have an opportunity to observe me for a year, after which time the Service will clearly realize that I simply do not have the interest or time to pursue the type of commercial activity that the IRS is assuming has already taken or will take place, and, will have the fair opportunity to provide the necessary full and complete accomplishment of each of the 14 points used by the IRS when determining if a church is really a church or just another faith based organization. Appreciating that the original vision for is based entirely on the model of the first century New Testament Church as depicted in the book of Acts, and not the characteristics as observed by the Service in judging what a church is.*



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*This one-year grace period simply provides the opportunity to appropriately accommodate the wishes of the Service without any theological argument.*

#### 4. Notice of Church Tax Examination & Pre-examination conference

In evaluating all the information provided in response to the NCTI and review of information posted on websites, a reasonable belief continued to exist that was not operating as a church and an examination of the books and records was determined to be necessary to resolve the Service's concerns. On April 12, 20XX the Notice of Church Examination (herein referred to as "NCTE") was mailed to . A copy of all information that caused the Service's concerns was provided to as required by IRC section 7611(b)(3) of the Code. The NCTE included the option to have a pre-examination conference with Service officials to try to resolve the concerns and alleviate the need for further action.

opted to participate in the pre-examination conference and the conference was held, via teleconference, on Tuesday, May 07, 20XX. Participating in the conference was representing and four IRS officials – the assigned revenue agent, first and second line managers, and an attorney – representing the Service. As explained during the pre-examination teleconference, part of the examination of the church is to determine if the organization is operating as a church and if not operating as a church, if the organization had some of tax-exempt purpose under IRC §501(c)(3). Based on available information, the Service would evaluate if activities were commercial in nature or tax-exempt activities; if tax-exempt activities, we would determine if the activities were commensurate of a church.

provided the following information via testimony during the teleconference:

- has been dormant for the last couple of years. father, , formed in the mid-19XXs and wanted to hold on to it since his "dad gave it to" him. later stated he was one of the original founders.
- has been thinking about starting a "brick and mortar" church – small community church or possible something for the retirement community such as retirement community care center/assisted living center. He thought the name " " was a "clever" name for a retirement community.
- was "not sure" he "needed" . stated he may want to form a new church, with a new name, and "keep the IRS out of it". stated he did not have the resources now to keep running.
- If a new church was formed, it would "get closer to the values of a church", but stated this was not intention when was formed since did not like the established church he was involved in – people were too involved in petty things and not spiritual things. was "vision" – new direction.



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- stated the entity he was president of – no longer existed.
- was something stated he wrote about since people kept asking about it and so he wrote and posted the information on the website and it was available to everyone for free. Later, when people asked for assistance or information on the program, would refer them to the website.
- stated he "*doubt it ( ) would pass the church test*", however, thought maybe it could be exempt in the future under something else – retirement community; assisted living center; or other purpose.
- discussed voluntarily giving up exemption, rather than "*have it taken away by the IRS*".
- explained what considered to be "integrated auxiliaries". These were "*departments of*". All income from the integrated auxiliaries were deposited in bank account(s) – initially sounded like one account, but then corrected to be multiple accounts – and then stated there would be "*sub-accounts*" that were essentially expense accounts relating to each of the integrated auxiliaries.
- stated "fiscal sponsorship" was an idea which did not really take off since thought the fiscally sponsored entities would have their own donor list, but it turned out those organizations wanting to be fiscally sponsored wanted to help them with the fundraising. was not good at fundraising.
- indicated they had lots of ideas, but there were no "*profit centers*" – by that he meant none of them generated any money. stated there was a problem with "*faith-base designation*". People would ask for the IRS exemption letter and when it was provided and the letter stated was exempt as a "*church*", questions would be asked and then people did not want to get involved.

## 5. Examination

The pre-examination conference did not resolve any of the Service concerns. Therefore, the examination for the period ending December 31, 20XX commenced on July 10, 20XX.

Some of the information provided during the examination included the following:

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**Officers/Directors:**

Articles of Incorporation filed December 1, 19XX states the three original directors shall be the governing Board of \_\_\_\_\_ and this included \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_. The Form 1023 filed on November 30, 19XX listed only two members of \_\_\_\_\_ governing body – \_\_\_\_\_ and \_\_\_\_\_.

During the opening conference, \_\_\_\_\_ provided the following testimony concerning the officers/directors of \_\_\_\_\_:

\_\_\_\_\_ and \_\_\_\_\_ were married to each other and \_\_\_\_\_ is their son. Both \_\_\_\_\_ and \_\_\_\_\_ resigned from the Board of Directors around the end of the 19XXs. For two or three years after \_\_\_\_\_ and \_\_\_\_\_ resigned, there was nothing going on.

By the year 20XX \_\_\_\_\_ had no activities, no income, no assets to distribute, no officers, no website, and no Secretary of State filings. \_\_\_\_\_ stated the only thing which remained was the name ( ) and the Service's letter which stated \_\_\_\_\_ was tax-exempt as a church.

When a decision was made to have \_\_\_\_\_ be active again, \_\_\_\_\_ had to file paperwork with State Board of Equalization to have the Articles of Incorporation reinstated.

In approximately 20XX, the "second life cycle" for \_\_\_\_\_ began. \_\_\_\_\_ stated these were the "rebuilding years" and \_\_\_\_\_ was added to the \_\_\_\_\_ Board of Directors as the company Secretary and Treasurer.

In approximately 20XX, due to some personal problems in his life, \_\_\_\_\_ stepped down as president of \_\_\_\_\_ but \_\_\_\_\_ remained as a director. At that time, \_\_\_\_\_ assumed the position as president of \_\_\_\_\_. Per written statement provided in response to the NCTI, \_\_\_\_\_ and his spouse, \_\_\_\_\_, are both members of the Board of Directors.

The above statement concerning \_\_\_\_\_ stepping down was shared by \_\_\_\_\_ as part of the response to the NCTI. Other information shared about the \_\_\_\_\_ included \_\_\_\_\_ worked 40+ hours a week and \_\_\_\_\_ worked 5 hours a week for \_\_\_\_\_. \_\_\_\_\_ was also represented as a clergy member performing services for \_\_\_\_\_ as a church and he was represented as responsible for distributing \_\_\_\_\_ checks and maintaining its accounting records during 20XX.

During the opening conference, \_\_\_\_\_ was notified that \_\_\_\_\_ and \_\_\_\_\_ would need to be interviewed to obtain information directly from them concerning the activities of \_\_\_\_\_. At that time, \_\_\_\_\_ stated that the \_\_\_\_\_ were not actively involved in \_\_\_\_\_ and were officer/directors in name only.

Given the inconsistent information, an interview was conducted on June 12, 20XX with \_\_\_\_\_ near his home in \_\_\_\_\_. During that interview, \_\_\_\_\_ confirmed he







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"integrated auxiliaries" of , but all were actually part of , similar to a division within any corporation, and are the operating arms for . These were not separate entities, independently organized and operated. In addition, was personally involved in all of these divisions/operating arms.

1. "Integrated Auxiliaries"

- – listed under " " on website – represented himself as the President of this component/division of . There was a hyperlink from website to separate website. website stated it was an integrated auxiliary of which is term for one of its division/operating arms.

website mentions this organization is *"an extensive learning center designed to provide the information about personal, private charities."* The website goes on to state *"A personal private charity is not funded with donations from the general public, thus the qualifications of net worth and income are quite necessary"*. The website mentions that a personal private charity is not for everyone and is designed for high-dollar taxpayers. The client should have a net worth threshold of \$10 million and annual income of \$1 million.

Review of the extensive information included on website revealed is soliciting high-dollar taxpayers to set-up what is termed a "personal charity" and/or "private charity".

As explained on website, the structure/formation of the newly formed organization ("personal charity") would be an integrated auxiliary of . The "personal charity" would form a *"charitable investment trust...naming the donor as its trustee"* and the *"trustee of the charitable investment trust makes...an "investment in a royalty type investment structure."*

"Charitable Investment Trust" was described, per a document posted on the website as, "...

"

website discusses *"The Core Structure"* and explains the *"parent charity is , founded in 19XX by , and . The original ministry (church speak for mission) was to be a new "way of life" for the Christian community. The name pretty much hit the nail on the head with the vision – an community."* The explanation goes on to state the *"current ministry is to provide the tools and capability for church members to enjoy an enhanced charity experience, allowing an individual to take the step "* and as an *"integrated auxiliary of*



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....”  
 ...the private charity...would “enjoys all those attributes of

The website promotes some advantages of being an integrated auxiliary of and part of the “ includes not having to submit Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, to obtain a separate tax-exemption letter; “no Private Foundation Chapter 42 compliance” restrictions, “no public charity accountability issues” and the ability “to receive grant funding from private foundations”.

A few of the relevant comments stated on website include:

*“The blending of various charitable (tax-exempt) entities with commercial, for-profit (taxable) entities does require some basic understanding. But they do work together in ways that are easy to grasp and simple to work with.”*

*“All charities are allowed, even encouraged, to invest the monies in the charity and do the actual charitable work out of the earnings of the investments. The investment portfolio of a charity is called the “endowment fund,” indicating that it is an investment fund for charitable purposes.”*

*“Endowment fund requirements are that the investment must be “passive” in nature. All charities are prohibited from being in “Trade or Business.” If a charity were to be allowed to be in trade or business, it would have an unfair advantage over a commercial business in that it would not have to pay taxes on profits.”*

*“A charity is encouraged to be a passive investor and yet is prohibited from being actively involved in a trade or business.”*

*“There are ways to structure a charity properly so that it would never become actively involved in a trade or business – and ways to assure that taxable taxpayers make only a marginal profit and tax liability is therefore minimized.”*

*“An “Integrated Auxiliary of a Church” is not a coined term. It is a concept defined in the Internal Revenue Code explaining how churches function with subset elements of the parent public charities. A church is the only type of charity authorized to birth independent, autonomous charities.”*

*“As a public charity, the integrated auxiliary has access to the typical sources of charity funding”; “...makes an excellent asset holding tax-exempt organization”; “...the licensing of the technology is a tax-exempt form of funding”; and “...makes an excellent endowment investment company, investment earnings are a tax-exempt form of funding”*

*“To avoid slipping into something that could be viewed as being actively involved in a trade or business, it is important to have a taxable taxpayer as the operational part of the structure.”*

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*"There is absolutely nothing wrong with a captive management-development taxable taxpayer. The integrated auxiliary could even fund and own the captive management-development company. This would provide the greatest element of control, especially in structuring contracts with the various charities that will be involved."*

*"The Business Investment Trust, a sibling trust of the Charitable Investment Trust, is specifically designed to provide a structural tool that provides the necessary taxable taxpayer element and, at the same time, interfaces with the various charity components."*

*"Like the Charitable Investment Trust, both the grantor and the beneficiaries of the Business Investment Trust are charities. This effectively separates the ownership elements that are always associated with corporations and provides direct linkage to and from charities."*

*"The Business Investment Trust resembles and aligns with the Charitable Investment Trust, making it an excellent tool for accomplishing the critically important responsibilities of the taxable taxpayer."*

There is additional discussion and multiple documents posted on the website about using this type of structure. Two items are included as exhibits to this report to provide an overview. This includes a flowchart that shows how the "Personal Charity Model" would work (**EXHIBIT A**) and "Is a Private Charity Right for YOU" (**EXHIBIT B**).

One of the hyperlinks on website was to information relating to , a former for-profit organization, and the information posted provided tax and wealth management strategies.

Per the Secretary of State filings, was a separately organized for-profit corporation formed by in July 20XX that ceased to operate in the mid-20XX and is currently listed on the Secretary of State website as permanently revoked. had its own website which ceased to be maintained after the mid-20XXs.

The NCTI response received from stated, in part, no longer exists as a separate entity – possibly went away " or years ago". stated this was going to be a for-profit organization in the business of providing educational tools. The educational materials were written during the 19XXs through 19XXs. At one time this was a business that the business partner (from ) put money into, but it "never went anywhere". stated this ended up being a consulting model that provided information on how to live more charitable. This business was "gone" as of early 20XX and, as a business, it "never got traction". stated this ultimately became a charitable and educational program of and the "historical stuff" was posted on website to help people be more charitable. This is all educational and free for



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the taking. stated he would tell people it was available on the website, but he did not help anyone directly and stated he was not compensated.

The Service asked questions about the relationship between and the for-profit business and asked a question if any board members, officers, ministers, or key employees financially benefited from the activities with and/or promotion of tax and wealth strategies.

The NCTI response stated, in part, *"There is no relationship with . It does not exist in any form; it was part of the learning curve with some very uncomfortable experiences in attempting to market concepts. But, today, there are only some papers that were written years ago - many still relevant today. The salient point, there are absolutely no marketing activities or promotions associated with ."*

The response received from was contradictory. Part of statement indicated no longer exists, but later stated in part of their written response that they *"folded everything into the , adopted the catch phrase of "*. As stated previously, review of current website included hyperlinks to documents labeled and those documents provided tax and wealth strategies such as:

- a. "Capturing Capital Gains for Charity" – which suggests donating highly appreciated assets to a qualified tax exempt organization; the charity then sells the assets, and the proceeds are not taxed. The "qualified" charity is something the donor sets up as *"an international charitable corporation that is set up as a private charity"*. The private charity is controlled by the donor.
- b. "Case Study – Income Tax Reduction" which suggested setting up a *"private foreign charity"*. The private foreign charity is controlled by the donor.
- c. "Charitable Contribution Followed By Grant To Donor's Private Charity" which suggests donating real estate, selling the real estate and then *"a significant portion of the proceeds from the closing of escrow are then granted to the donor's private charity granted to the donor's private charity."* The private charity is controlled by the donor.

These are just a sample of the documents listed on the website.

- – listed under " " on website – formally known as . The response to the NCTI stated the entity *is not really an integrated auxiliary of , but rather it is a nonprofit corporation formed on September 25, 20XX, corporation certificate number , and Employee Identification Number ."* website had a hyperlink to a separate website for and that website stated this was one of integrated auxiliary which is term for one of its division/operating arms.

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Per the response to the NCTI: "... the purpose is to provide all charities with the same type of tools and capabilities that are enjoyed by what could be called the small group of "super charities", those charities with either a net worth, income, or contributions of \$ \_\_\_\_\_ or more. This would be less than \_\_\_\_\_ % of the approximately \_\_\_\_\_ charities, about \_\_\_\_\_ of the largest charities." \_\_\_\_\_ explained \_\_\_\_\_ was a way for smaller charities to develop equity.

\_\_\_\_\_ stated \_\_\_\_\_ has not filed for tax-exempt status yet since \_\_\_\_\_ realizes he has 27 months to apply for exemption. When \_\_\_\_\_ was part of \_\_\_\_\_, it was difficult to get contributions and grants since people did not want to be involved in faith-based charity. Therefore, this program files for its own Articles of Incorporation under the nonprofit statutes of the State of \_\_\_\_\_. In checking the \_\_\_\_\_ Secretary of State website, this organization's current status is "Revoked".

In its response, \_\_\_\_\_ did not provide information on the activities of \_\_\_\_\_ and did not address why, at one time, this was considered to be an integrated auxiliary of \_\_\_\_\_. In addition, \_\_\_\_\_ did not provide information on how the operation of this specific program supported a charitable and/or religious purpose.

- \_\_\_\_\_ – listed under "\_\_\_\_\_ " on \_\_\_\_\_ website – There was a hyperlink from \_\_\_\_\_ website to \_\_\_\_\_ separate website. \_\_\_\_\_ website stated it was an integrated auxiliary of \_\_\_\_\_ which is \_\_\_\_\_ term for one of its division/operating arms.

The NCTI response, stated, in part, "\_\_\_\_\_ was a failed effort at providing solutions to environmental challenges."; "When I say failed, the people working with \_\_\_\_\_ became distracted with commercial enterprises and were not able to sustain the purpose and "\_\_\_\_\_ is just one of many examples of such an experience. It could have been great, but never really got any traction and did not happen."

\_\_\_\_\_ verbally stated this entity was the idea of two individuals – (originally from \_\_\_\_\_, \_\_\_\_\_, but now in \_\_\_\_\_, \_\_\_\_\_) and \_\_\_\_\_ (originally from \_\_\_\_\_, but now living in \_\_\_\_\_ and \_\_\_\_\_, \_\_\_\_\_). These individuals had "bright ideas" and both were previously disaster "first responders" so the organization was going to work with "resolving environmental challenges". Although intentions were good, they did not follow through with the plans. \_\_\_\_\_ stated resources such as energy, food, water, etc. are valuable and \_\_\_\_\_ was going to address those resources.

\_\_\_\_\_ stated in early 20XX, \_\_\_\_\_ left \_\_\_\_\_ and moved to \_\_\_\_\_, \_\_\_\_\_ to help his neighbors. \_\_\_\_\_ also stated \_\_\_\_\_ walked away from \_\_\_\_\_, but tried to take the ideas and make it into a for-profit business.



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In 20XX there were transactions involving \$ \_\_\_\_\_ received from \_\_\_\_\_ that had a connection to \_\_\_\_\_. The funds were received as two \$ \_\_\_\_\_ payments and were described as either a "Donation or Loan" in \_\_\_\_\_ financial records. These payments were deposited into one of \_\_\_\_\_ bank account under \_\_\_\_\_ control. The specific payment information is discussed later in the report under "Financial Information".

Testimony provided by \_\_\_\_\_ concerning the \$ \_\_\_\_\_ transaction included, but was not limited to the following:

- \_\_\_\_\_ and \_\_\_\_\_ ( ) were involved in a forming a new for-profit business called \_\_\_\_\_ and they were looking for a source of funding.
- \_\_\_\_\_ introduced \_\_\_\_\_ to \_\_\_\_\_ and \_\_\_\_\_.
- There was a meeting between \_\_\_\_\_ and \_\_\_\_\_ and the point of the meeting was for them to "make a deal".
- The deal was for \_\_\_\_\_ to make a \$ \_\_\_\_\_ "donation" to \_\_\_\_\_ integrated auxiliary " \_\_\_\_\_ " and funds would then be given to the for-profit company, \_\_\_\_\_.
- This would be considered an investment of \_\_\_\_\_. If \_\_\_\_\_ made money, then \_\_\_\_\_ would get "dividend checks". \_\_\_\_\_ stated the ownership of \_\_\_\_\_ would be \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_.
- \_\_\_\_\_ only made two \$ \_\_\_\_\_ contributions (donations) – both in 20XX – the 3<sup>rd</sup> \$ \_\_\_\_\_ payment was never made.

Information Document Request (IDR) #002 was issued on July 29, 20XX. Part of the IDR requested information on individuals involved in \_\_\_\_\_. The response to IDR #002 and other documents reviewed, showed this to be a business arrangement between the individuals involved in \_\_\_\_\_, a for-profit corporation, and was a way for \_\_\_\_\_ to receive some capital as an investment. The response also stated \_\_\_\_\_ was involved in the transaction to allow him to pay his personal expenses – retained % (\$ \_\_\_\_\_) of the payments from \_\_\_\_\_.

The structuring of the transaction allow \_\_\_\_\_ a tax-deductible donation for the \$ \_\_\_\_\_ "donated" to \_\_\_\_\_ and then the funds would be given to \_\_\_\_\_. Although \_\_\_\_\_ stated multiple times \_\_\_\_\_ did not take a tax-deduction for his payments to \_\_\_\_\_ (which went through \_\_\_\_\_ accounts), \_\_\_\_\_ does not have first-knowledge about \_\_\_\_\_ tax situation.

From the response provided, \_\_\_\_\_ is stating \_\_\_\_\_ would be the "shareholder" and not \_\_\_\_\_. \_\_\_\_\_ is a division of \_\_\_\_\_ and the bank account for \_\_\_\_\_ is one of \_\_\_\_\_ bank accounts under \_\_\_\_\_ control. The majority of the funds from \_\_\_\_\_, less the \$ \_\_\_\_\_ retained by \_\_\_\_\_, were transferred to \_\_\_\_\_, a for-profit corporation. \_\_\_\_\_ did not have any documentation to show ownership of \_\_\_\_\_.



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did not provide any details on operation and why it was considered to be an integrated auxiliary of . Nor did provide information on how the operation of this specific program supported a charitable and/or religious purpose.

In response to the NCTI comment that was "a failed effort at providing solutions to environmental challenges", IDR #005 was issued to request specific information on specific activities of the program/project, when these activities took place, who this project assisted and how this program/project's activities furthers one or more of the tax-exempt purposes stated in §501(c)(3) of the Internal Revenue Code. In response to IDR #005, stated "Never really did all that much". These comments gave the impress that was not an active division of , but information was obtained during the examination which indicated was still actively conducting business during the audit year and used tax-exempt status to attempt to conduct other business as discussed under "Other Activities" later in this report.

separate website was available via a hyperlink from website. The information posted on website was reviewed and the activities listed did not appear to support a charity and/or religious purpose and activities listed did not appear to support any exempt purpose. On the bottom on the website was "Copyright © 20XX". Although claimed that failed, the records did not support this claim.

Contact was made with both and to obtain information on the \$ payments made by to which subsequently paid to . is the current president of and is one of the original board members/owners of

— stated he is part owner of and was one of the founding members. stated in when first formed, needed an infusion of capital and was approached to be an investor. Specifically, they wanted to contribute \$ for % of the stock. The funds were supposed to be sent through or bank account in two separate payments of \$ each and this was paid in about June 20XX. stated and told him by depositing the funds first in either or account; he ( ) would get a charitable donation since was a recognized faith-based charity. stated he is not very familiar with how this works since he uses a CPA for return preparation but made the payments as requested. After the transactions were completed, received a written acknowledgement receipt from , signed by , thanking him for his donation – copy of the receipt was provided for the audit and was shared with

In addition to the \$ cash initially put into , stated he also contributed other items to such as building items – platform for the vehicles – which he built through



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his company, , and then contributed directly to . acknowledged either he, and/or his personal for-profit companies, would financially benefit from this arrangement.

stated he did not initially get any stock, but was informed a couple of years later the shares would be forthcoming. did not know the reason for the delay. stated he was not on the Board of Directors for and they (the company) treated him as an investor. provided several e-mail messages to support/confirm his statements.

In discussing knowledge of and , stated he thought and were both vehicles used by and to raise capital. To his knowledge, did not believe there was a church involved and there was never a discussion on religious doctrine, creed or beliefs, he never attended and never heard of anyone attending any church services conducted by on behalf of . stated he had never heard hold himself out as a minister.

stated, to his knowledge, and did not actually conduct charitable activities with the exception of one time when was asked to provide a special \$ contribution (around Christmas) to do something for (Marine activity). stated the activity was supposed to be fundraising party at one of the local casinos, but it never occurred and then talked about moving the event to Easter, but it just never came about. To knowledge, his \$ contribution just went to and may have been used to pay for personal expenses. received a charitable donation acknowledgment receipt from for the \$ contribution.

The receipt for the \$ payment and \$ were not the only charitable acknowledgement receipts received by . As discussed in detail under "Other Activities" later in the report, lent some money to and for those loans issued written acknowledgements to thanking him for his donation to .

stated presented the concept of a Charitable Investment Trust to him and provided some documents concerning the Charitable Investment Trust, but stated he did not set up a trust.

— stated he has known since about 20XX or 20XX. Both he and d the common background of previously serving in the , but they did not serve together.

About the time was being formed, told about and what could do. was one of the original founders of and since needed an investor to help fund the business, introduced to and (



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president) since had money available to invest. stated this was a business proposal; was not a charitable organization; and does not do charitable activities.

stated he was "apprehensive" about bringing in an unknown investor and, after talking to and learning about , decided to utilize for his services. stated since was a newly formed business and did not have its own bank account, the decision was made to have the investment from be paid to another bank account until after the check cleared. After the funds from cleared and were deemed to be good, the funds would then be transferred into new bank account. further stated funds were paid to and were held in charitable ministry account ( account located at ). stated more than once the purpose of the transaction was to be sure the funds were good and / account was used as the "escrow agent" (holding account). stated he did not care which account it went through as long as it did not go directly into account. The transactions occurred exactly as planned – funds were funneled through the escrow/holding account to business account.

stated for this service, paid a fee – % of the investment (\$ ). stated the fee was partial a "finder fee" for introducing the parties and helping the business go forward and was paid in part to compensate for his help in locating a building to conduct the business. Prior to formation, and were both living out of state and needed assistance to locate a business property. From the amount received (\$ ), stated it was his understanding that was going to pay part to and who helped locate the facility. stated he had no knowledge on how split the funds with , but the payment of the fee was also done to prevent anyone ( , or ) from having a future claim against . Review of financial records, discussed later, confirmed when payments were made to for the investment, \$ cash was withdrawn and recorded in records as payments to and .

Although stated account was used only as an escrow account and did not really care which account the funds were sent through, one of the documents provided by was an e-mail dated 06/09/20XX from to . This e-mail provided to the account number to be used to make the deposit. Per e-mail message:

*"Here are the wiring instructions that were provided by for the deposit using in order to make it a donation and get the tax deduction."*

This statement seems to contradict statements that he (or ) did not care which bank account the funds went through.



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stated was a for-profit organization and not a charitable organization, so the agent inquired about the issuance of stock for the shares purchase. stated there was a delay in getting the shares issued and they had planned to issue the shares earlier to , but refused to sign a non-disclosure agreement (NDA), which created some problems for the corporation. stated the \$ deposited into account was always intended to be an investment in .

The agent inquired as to what thought the charitable purpose was for . stated he thought was a means to raise funds for charitable and humanitarian purpose. Inquired if knew of any specific charitable undertaken/completed by did not know of any.

explained to that his father, , had a non-denominational church that could help with financing philanthropic and humanitarian projects. stated he was told this was not a traditional church, but was a faith-based organization formed by who was not happy with traditional churches.

stated did not hold himself out to be minister/reverend and he, , was not aware of any church gatherings, prayer groups, etc. stated has never preached to him and never suggested/mentioned attending church at .

stated in about 20XX or 20XX discussed and tried "educating" him about the concept of Charitable Investment Trust. It was explained to that this was a "personal" or "private" charity that used EIN for operation. It was explained this was an alternative to donating to a private foundation or a public charity.

In discussing knowledge of , acknowledged his involvement in and stated helped him set-up as an integrated auxiliary of . Per , was trying to teach people in Central America to avoid "deforestation" and teach "reforestation". acknowledged that received some funding in 20XX and the funds they received were used for travel to one of the countries where they were considering performing services. In regards to who controlled the accounting of stated it wasn't him and it might be ( , ). However, stated the intended project died almost as fast as it was created.

- – listed under " of website – This entity was previously shown to be integrated auxiliary of . The response to the Notice of Church Inquiry stated " *is not really an integrated auxiliary of* , but rather it is a *non profit corporation formed on September 25, 20XX,*



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corporation certificate number \_\_\_\_\_, and Employee Identification Number \_\_\_\_\_  
 . "We are still in the process of crafting exactly what \_\_\_\_\_ will be.  
 We are working with the concept that high value individuals, those with high net worth or high income really need much more guidance in how to interface with a charity and that many challenging problems can be resolved with the proper application of the correct resources.

\_\_\_\_\_ website had a hyperlink to a separate website for \_\_\_\_\_ and that  
 website stated this was one of \_\_\_\_\_ integrated auxiliary which is \_\_\_\_\_ term for one of its  
 division/operating arms.

Review of \_\_\_\_\_ website reflected activities that are not in furtherance of  
 a tax-exempt purpose listed in IRC §501(c)(3); the activities are not activities of a church and  
 statements were included which may preclude this organization from exemption under IRC  
 §501(c)(3). The website stated this program/organization is marketed towards high wealth  
 individuals.

\_\_\_\_\_ stated this organization was geared towards wealthy professional athletes and  
 teaches them how to be more efficient in charity giving. In checking the \_\_\_\_\_ Secretary of  
 State website, this organization's current status is "Revoked".

- \_\_\_\_\_ – listed under "\_\_\_\_\_ " of \_\_\_\_\_ website – There was a hyperlink  
 from \_\_\_\_\_ website to \_\_\_\_\_ separate website. \_\_\_\_\_ website  
 stated it was an integrated auxiliary of \_\_\_\_\_ which is \_\_\_\_\_ term for one of its division/operating  
 arms.

\_\_\_\_\_ stated this organization was an integrated auxiliary of \_\_\_\_\_ (one of \_\_\_\_\_ divisions and  
 operating arms) and this part of the organization focused on six life-sustaining resources; how  
 to be more efficient and better stewards of our given resources. \_\_\_\_\_ stated that  
 there was not an actual separate organization with its own EIN and there was no money  
 generated from this activity. \_\_\_\_\_ stated his involvement included research and the study  
 of ways to save resources.

Per the response to the NCTI, "One of the core beliefs of \_\_\_\_\_ is that we all have the  
 greatest responsibility to be wise stewards of resources, particularly life sustaining resources  
 such as air, water, food, energy, health and shelter. \_\_\_\_\_ was crafted to come  
 up with solutions to doing more with less." "Currently we are focused on being able to provide  
 food with high performance growing systems that also manage water and power efficiently thus  
 the cost is comparable with farm grown crops with an even smaller carbon footprint."



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website stated “ (an environmental nonprofit organization) and <sup>3</sup> actively promote an exclusive and unique approach to real estate ownership, energy performance management and capital investment strategies”.

did not provide any details on operation and why it was considered to be an integrated auxiliary or mission/ministry of nor did did not provide information on how the operation of this specific program supported a charitable and/or religious purpose.

Although stated they are “currently” focused on being able to provide food with high performance growing system, no information was provided during the audit to support was doing this type of activity.

## 2. “Fiscal Sponsorship”

- – is not listed on website, but there was a separate bank account ( ) in the name of “ / ”. As explained by during the opening conference, this was a non-exempt program/project for an overseas activity. Using exemption, contributions were solicited for this program/project and donors received tax-deductible acknowledgement receipts from . represented this to be program/project fiscally sponsored by .

Information Document Request (IDR) #002 issued on July 29, 20XX requested information on the transactions involving . Specifically asked for the contact information and any documents relating to the fiscal sponsorship arrangement – such as the request to be fiscally sponsored; the actual fiscal sponsorship agreement; any periodic reports submitted by ; and any other written correspondence between (including officers/directors) and (including contact with and/or ).

No contact information was available, but written response provided background and explained how got involved in :

“ and ( wife), are sisters. is a religious mission that rescues orphans. We got involved simply because was . There was no written agreements of any kind, big mistake. At first it was simply a forwarding agent for their foreign ministry. It fit nicely with the mission, etc. It was simply at first, and all of the work was simply pro bono, our gift to the ministry.”

“ ended up working for about 20 hours per week, she even did a news letter for them, managed everything imaginable, and never received a penny. As we were not surviving

<sup>3</sup> Per website, is a “privately held Corporation.”



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and had collected and was warehousing over \$ in cash, I changed the rules. I wanted both and to get paid. One for using and the other for the man hours that was committing to their project."

"Well anyway, I decided to take % out of their account, which did at my insistence. When found out what we were doing, she managed to get removed from the account. I did nothing about that because of my relationship with and being his . Needless to say it did damage our relationship with and , well anyway."

The financial records reflected the following amounts were withdrawn to compensate for her time and to pay for "using".

03/11/20XX \$  
04/12/20XX \$  
05/13/20XX \$  
05/13/20XX \$  
\$

The withdrawal actions taken by caused a problem for , and had access to the bank account cut-off. Therefore, after mid-year (May 20XX), there are no longer transactions into account received for or distributed to . did not provide any information on how "managed to get removed from the account".

### 3. Other Activities

Although has claimed to be tax-exempt as a church under §509(a)(1) and §170(b)(1)(A)(1) of the Internal Revenue Code, in various discussions with statements were made that even if is not operating as a church, it is operating for a charitable purpose and activities continue to be "charitable in nature". IDR #005 was issued to request a detailed statement to address program services and exempt purpose achievements during the period 20XX through the present. The IDR explained a "program service" is an activity of an organization that accomplishes its exempt purpose.

The response from provided no information on any of the activities of and stated, "Simply, believes, and preaches that those who have been given much are required to share much. It is a Biblical truth. Which becomes the mantra, " . Success being defined as those who have much, significance being those who share."



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The response provides various Biblical quotes and numerous comments regarding the IRS. stated, *"I have largely chosen web sites as an inexpensive way to get the message out. It is a very Biblical centered message that would be life changing if it were to be spread far and wide. It is a message that has been around for centuries. And I feel called to share that message any way I can."*

This written statement gives the impression that may not have any activities that are church activities and/or charitable activities that would be for an IRC §501(c)(3) purpose.

In addition to requesting directly provide information on its exempt activities, the agent reviewed various documents and information posted on website and documents provided by third party contacts. The items reviewed did not support operating as a church or for a tax-exempt purpose. Some documents were shared with and are included in the Administrative Record

For example, one document reviewed was a letter addressed to , written by , sent on letterhead dated March 8, 20XX (sent to via e-mail). This letter stated, in part, the following:

*"Our meeting yesterday afternoon was very productive, giving us a lot of common ground to work with on some pretty amazing projects. A lot of this, shall we say 1/3, has a direct charity possibility."*

*"More important we have the knowledge, skill sets and tools necessary to know how to very nicely blend this entire project together into a charity platform, supported by various for-profit models. As an example: what we call the "Paul Newman" model, a product which is commercially sold with all of the net after-tax profits going directly into a charity. Things like that. We have a host of different models for blending commercial enterprises with charity."*

The agent also requested and received some e-mails concerning activities of . In reviewing the e-mails, many of them indicated was involved in, or attempting to be involved in, for-profit activities and not activities of a church/charitable nature. Other e-mails indicated was using tax-exempt status to solicit individuals to set up what is represented as a "private" or "personal" charity. All e-mails are included in the Administrative Record but, as a sample, some of information from the e-mails are extracted and discussed below. None of the e-mails provided indicated that is operated exclusively for a purpose stated in IRC §501(c)(3); at least one of the e-mails reflect is instructing individuals on how to write grant proposals to secure funds to be used for private benefit; and there were e-mails concerning tax-exempt status being used to market what appears to be a tax-shelter product (Charitable Investment Trust). Examples:

- 1) E-mail from to dated September 4, 20XX with Subject of *"What Happened??? Catching Up – Sort Of!!!"*



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*I have a group that could be a source of funding your large intercity food growing projects - they say they have an appetite and capability north of \$ . Of course they will require a fairly well developed business plan etc. If this proves out to be real and I can help, I will be right here.*

*We are working on a very interesting consulting group that you will want to be part of- it involves filling in the gaps of five different industries that fit nicely together into a fairly unique package;*

- 1) High Value Individuals, high income and high net worth*
- 2) EB-5 Visa Investors, with \$ to \$ to invest in job producing projects*
- 3) Charities, the national faith based charities*
- 4) Assisted Care and Retirement Communities*
- 5) Net-Zero Energy systems, both energy production and energy conservation*

*Got a guy with a "new" (where have we heard that before). narrow vein gold mining technology. Any interest?*

- 2) E-mail from to dated June 17, 20XX that listed various topics as shown in the extracted message below. These do not appear to be organized and operated for a tax exempt purpose. One of the items referenced, "A – 20XX 06 16 – –" was reviewed and the following was extracted from that document:

<b>-----Original Message-----</b>	
<b>From:</b>	
<b>To:</b>	
<b>Cc:</b>	
<b>Sent:</b>	Jun 17, 20XX 10:24 am
<b>Subject:</b>	Follow Up On Our 20XX06 08 Meeting
 20XX06 17	
Based on our meeting last week, several thoughts in an effort to pull things together into plan of action we can live with. And, a few supporting attachments.	
<b>A – 20XX06 16 –</b>	<b>.pdf</b> My comments and additional information for your consideration in structuring more precise strategies.
<b>B – 20XX06 17 –</b>	<b>.doc</b> The basic outline articulating the vision for the Initiative.
<b>C1 through C7</b>	Simple drawings showing the basics for the large project in North
<b>D –</b>	<b>.pdf</b> The project is very real. Notice the detail associated with a project of this nature, and this is chapter 6.
Appreciating that you are extremely busy right now. Still, lets keep these projects in mind and be moving them forward. I will continue to focus on getting the early documents in place.	

*– Thank you for the very detailed and candid explanation of what is going on and why. It all makes sense and if there is a there, there -this could very easily be big. Your being directly involved as the architect of various business opportunities is a fantastic possibility for you. If they extend to you the proper respect and latitude to actually get things done, you will do an excellent job of steering a very large ship.*



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( ) – Currently a nonprofit corporation. formed back in September 20XX. We need to qualify as a "public charity" as quickly as possible. We don't need to invest a lot of time right now with all of the possibilities that could accomplish, let's just say that could be a very significant player in supporting many other charities.

is clearly our platform and our focus for doing the things we have dreamed of doing for decades. I vision it as a much more powerful charity than ever imagined. Stepping away from a "faith-based charity" is a very significant step.

The thing we need to do would be to build as a full-service charity support public charity. Of course fund raising is the primary activity of , that professional development department we have been moving toward.

– Or whatever. When we need a commercial element, which is not a charity, we can quickly bring one into existence. Currently I am using " as a consulting firm. The concept of dates back to the 19XXs, still very relevant today.

There would be a logical need for a commercial marketing company associated with the technology. It will be interesting to see what products come out of that technology development effort.

- 3) E-mail from to of dated February 14, 20XX with Subject of ". This e-mail message instructs how to get a grant and "how to commercialize a grant and use it to make money". specifically instructs to get a grant designed for tax-exempt purposes and use it to conduct potentially taxable activities and use it to benefit himself ( ). Some specific statements made in this e-mail include:

"Rather than spending a lot of foolish time struggling with attempting to get grants it will make a lot more sense if you understand what we are needing to do. This knowledge base is something that you will not find anywhere, those who do not know, do not know, those who do know are sure never going to tell you. After some 30 plus years working with charities I know what I know."

"As you look at the big pictures of getting grants from either a government agency or a private foundation, what you tell them will determine if you get the grant or not. Well, duuuuhhhhaaaa. My value added contribution to the process is knowing what works (getting grants) and more important how to commercialize a grant and use it to make money - a lot of money. This is really why I am valuable as a coach. My knowledge translates into your saving money in getting grants and then in making money with the grant process."



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*"There is no need for us to waste a lot of expensive time and effort doing stupid things that will not work. Get it correct and getting a grant is relatively easy, get it wrong (as most do) and getting grants is much more difficult. So what you are about to learn is worth tens of thousands of dollars, especially if you are planning on getting any grants."*

*"Grants, all grants, are all about public benefit and not private profit. If your idea of a grant looks like it will generate a private benefit, (profit) to an individual or company selling either a technology or product, the grant will struggle to be awarded. On the other hand if there is a clear articulation of obvious public benefit getting a grant is much, much easier. Just the mention of a product name or company telegraphs that there is an undercurrent of private benefit involved. In other words if it looks like a private company is going to make money because of the grant, the tendency will be to not let the grant. Always focus on what the benefit would be to the largest number of potential beneficiaries. Never suggesting that the product has focused private benefit."*

*"Always partner with a proven granted player, say a university. They can easily get grants and provide the third party technology verification in one simple step. Be prepared to share the grant proceeds with them, figure at least % of the proceeds from the grant. You will always get more out of the grant than the university, just consider it a cost of getting the grant. Besides the money is not in getting the grant - it is what you do with the grant that is where the real money is."*

*"Take the results of the grant funded independent study, shoot it off to the marketing department, and make a lot of money on the marketing side as the proven winner. By the way - if all that you have is a bunch of bull shit, then good luck. The key is winning the demonstration project, not being proven as a stupid fool. Then again, winning could be worth tens of millions, perhaps hundreds of millions of dollars."*

*"That is how you make money with a grant. It is never about the grant, it is always what can be done with the grant funded demonstration study. If it is only the grant dollars that are important, the true opportunity will be missed."*

- 4) E-mail from \_\_\_\_\_ to \_\_\_\_\_ dated January 12, 20XX with the Subject "CIT Conference Call". \_\_\_\_\_ signs this e-mail as the Executive Director of \_\_\_\_\_. Other individuals included in the e-mail stream/series included \_\_\_\_\_ (Director, \_\_\_\_\_) and attorney \_\_\_\_\_ (of \_\_\_\_\_). The "CIT" stands for "Charitable Investment Trust" which is one of the products marketed/offered by \_\_\_\_\_ and referenced on \_\_\_\_\_ website.

This e-mail message was prepared in response to \_\_\_\_\_ who was questioning the concept. \_\_\_\_\_ specifically questions and makes the follow statements:



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*I will have to actually put some thought into specific issues. I really am having a difficult time with the concept in its entirety.*

*If I understand this at least partially correctly, the way this works is:*

- *( ) is a charitable nonprofit with tax exempt status;*
- *You then formed a charitable trust within ;*
- *You are the trustee of your trust, and is the trustor and owns the assets of the trust;*
- *Once donations are made to your trust, you as trustee have the right to invest them in appropriate charitable endeavors, one of which apparently is ;*
- *You as trustee are responsible for the trust, and are entitled to \$ per hour plus expenses.*

*We have discussed that any taxes owed to the federal government could be placed into the trust instead of being paid to the government:*

- *obviously the first issue is whether this is legal – also, obviously, if so you and your contacts, who I understand have been doing this a long time, have the appropriate legal opinions to substantiate this;*
- *assuming this to be the case, it appears the goal is to then invest the trust money and grow the trust assets;*

*Assuming the trust grows, it appears the beneficiaries are charitable tax exempt organizations:*

- *what is the benefit of growing a trust the assets to which neither myself nor my heirs would have access?*
- *While I realize an hourly rate can be charged, if the benefits of growth go elsewhere, \$ per hour seems like nothing more than a substantial headache;*
- *What benefit to I receive as trustee of a growing trust if the asset growth is untouchable?*

*Some other thoughts:*

- *I understand putting tax payments in if this is a legal tax shelter and there is some benefit to be gained, but do not see the wisdom of putting all assets in?*
- *What benefit does get from administering this?*
- *Are my tax, financial and legal fees associated with the trust and being trustee covered expenses?*
- *What qualifies as appropriate charitable investments?*



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*In a nutshell, while I have no real interest in lining the government coffers with my tax dollars, if there is not some tangible benefit to myself or heirs, than is do not see the purpose.*

*My main concerns are as we have discussed, mainly the legality of paying no taxes to the government – does this include taxes to the State of – and at some point having the government come knocking for all of the back taxes that would then be owed.*

*Additionally, it is unclear to me exactly how it is structured – you have mentioned that I would be in charge of the trust and that I could pull a salary as trustee, on which I would be then taxed. Is this accurate? And if so, it seems like I am avoiding paying taxes by paying into the trust but at the same time then pulling some of the money back out. Do I have this right?*

*Assuming I can pay what would otherwise be owed to the government to the charitable trust, who then dictates how and where this money is spent?*

responded in the e-mail by stating:

*You cannot avoid paying either State or Federal Taxes. Rather you can make a charitable donation and deduct that donation from your taxes. % of your donation can be used by to form a Charitable Investment Trust with you as the Trustee of that Trust. In that since the funds in the Trust are no longer yours (and therefore not income to you that can be taxed) you are simply the custodian of the funds. In consideration of your position as Trustee you can be compensated by the Trust. Such compensation when received would be taxable income to you and must be claimed on your State and Federal returns in the year that it is received. The balance of the funds in the Trust (called the Endowment) remain tax exempt and may be invested by you (the Trustee) for the benefit of the Trust. This activity is also tax exempt. There is nothing particularly creative or unique about this process or activity to either accountants or the IRS. It is all well with the guidelines and standard activities of Public Charities. The "new" and "unique" thing is that typically tax payers are not introduced to this model or able to access faith-based public chartites who are willing to establish this type of Trust on their behalf.*

*As the Trustee of the Trust it falls to you, as the Trustee to invest the Endowment wisely and in the best interest of the Trust. If you fail at this the Trust will become insolvent and there will be no Endowment to invest in the future.*

One of the e-mails sent from to ends with making the comment that and would explain the concept and would "clear it up one way or another for you".

Other Charitable Investment Trust information: Received from one of the third party contacts was an e-mail, with attachments, from dated March 18, 20XX with the Subject:

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“ - *Charitable Investment Trust Informational Questionnaire*”. This e-mail and the attachments – including *Trust Informational Questionnaire* and “*Understanding and Properly Using the Charitable Investment Trust*” were shared with and are included in the Administrative Record. These documents provided more details as to what Charitable Investment Trust was and how it could be used.

One other observation concerning activities of concerns using tax-exempt status to raise funds for personal use. Secured from were some e-mail sent to him from . The purpose of the e-mail messages was requested to borrow funds for personal use. Example: There was an e-mail from to dated July 15, 20XX with Subject Line of: The Not So Good, The Good and The Great. This e-mail was a plea from to requesting to “*borrow another couple of thousand dollars from you again*”. The e-mail message states, in part:

“ and I are in financial trouble again....We really need to borrow another couple of thousand dollars from you again....You have become our safety net, our only safety net....Again, if we do not have our rent paid tomorrow (Monday) we will need to move.... We are up against it, with no solution in sight, we really need to borrow another \$ or \$ from you....Of course both and I have always been grateful and appreciative when you have rescued us the couple of times in the past.”

stated whenever he would loan money to the for their personal use – such as paying of rent mentioned in the message above – would get, via e-mail, an acknowledgement from thanking him for his charitable contribution to . also provided various e-mails supporting his statements concerning the charitable acknowledgement receipts provided to for amount loaned by to . These receipts were in addition to the receipts received for his investment in and receipt for the \$ he provided for the event.

### **Financial Information:**

did not maintain financial records for its operations. stated they primarily used debit cards and everything went through the bank accounts so, to prepare for the audit, stated he went to and received a copy of all the bank statements for 20XX. did not request or receive the supporting substantiation for the transactions in the bank account. After receiving the statements, went through each of the transactions in the bank accounts and prepared an Microsoft Office Excel spreadsheet (herein referred to as “spreadsheet”) itemizing the income, expenses and miscellaneous transactions. In addition to the spreadsheet, stated they had receipts to support some of the expenses, but not all the expenses. The audit was conducted with the available records.

#### **1. Identified Bank accounts**



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represented had ( ) business bank accounts in 20XX as follows:

- – – This is main checking account. The transactions in this account are discussed later in this report.
- – – This account was under the control of and was specifically for a program/project called “. This program/project was discussed more in-depth earlier in the report under “Activities and Operation – Fiscal Sponsorship”.
- – – This was an investment account and only activity was the transfer of funds in and out of this account.
- – – This was the savings account for the investment account above and the only activity was the transfer of funds in and out of the account.

In addition to the business accounts identified, provided personal bank information for of its officers. This information was requested for the audit, but provided by as follows:

- – ( ) Account
- – Account and Account

A copy of the bank statements for the above business and personal accounts were provided for the audit.

Reviewed the transactions in the bank accounts and noted the following:

- There were various cash transactions involving funds withdrawn from one of accounts and re-deposited into personal account ( Account ) or was not re-deposited at all. For most of these cash transactions, no verification of business purpose of the transfers was available and/or provided.

Examples:

Date	Amount	Withdrawn From Account	Acct #
03/11/20XX	\$		
05/13/20XX	\$	( )	
06/08/20XX	\$		
07/13/20XX	\$		



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\*NOTE – These were not the only identified cash transfers, but are examples of some of the transfers.

- There were several on-line transfers from account ( Account ) to personal account ( Account ). Examples:

Date	Amount
06/29/20XX	\$
06/30/20XX	\$
07/11/20XX	\$
07/29/20XX	\$

\*NOTE – These were not the only identified on-line transfers, but are examples of some of the transfers. There were also some transfers from business accounts into personal bank accounts ( Account and/or Account ), but the amounts were smaller. In addition, there were amounts transferred to accounts which may have been funds originally from business accounts. Banks statements and spreadsheet can be reviewed to identify other transactions.

- There were several cash (or counter<sup>4</sup>) withdrawals from the business accounts. For a couple of the withdrawals, provided a written comment on the spreadsheet, but for other cash withdrawals, no information or documentation provided – no business purpose established for the cash withdrawals. Examples:
  - The spreadsheet provided shows on June 10, 20XX there was a \$ payment to (Investment or Loan); \$ payment to (Grant); and ( ) cash withdrawals (\$ , \$ , \$ and \$ ) from . In reviewing the bank statements, all of the above transactions were shown to be "Withdrawal Made In A Branch/Store" made on June 15, 20XX. Although identified the \$ payment as a grant to and \$ was a payment to , no actual supporting information was provided for any of the cash withdrawals. Information was gathered during the audit that the \$ withdrawal was subsequently deposited into another one of business account, (Account ). This account was in the name of " <sup>5</sup> . The funds in this account were subsequently transferred to bank account. The account is discussed in-depth below.

<sup>4</sup> prepared spreadsheet listing the withdrawals as "Cash Withdrawals" and the bank statements show these amounts to be "Withdraw Made In A Branch/Store". However, the source documents are not available and given the amounts (such as \$ , \$ , or \$ ) it is possible the amounts were counter checks and/or cashier checks.  
<sup>5</sup> did not provide the bank information for and this was obtained through other means.



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- b) July 5, 20XX – \$ cash withdrawn from business account with (Account ), but no supporting information provided on the use of the cash withdrawn.
- c) August 8, 20XX – \$ cash withdrawn from business account with (Account ), but no supporting information provided on the use of the cash withdrawn.
- d) August 23, 20XX – \$ cash withdrawn from business account with (Account ), but no supporting information provided on the use of the cash withdrawn.

\*NOTE – These were not the only identified cash withdrawals without supporting document, but are examples of some of the transactions.

- Transactions – There were two (2) “ ” (deposits) into personal bank account ( ): February 14, 20XX for \$ ; May 13, 20XX for \$ . On December 14, 20XX there were two small deposits into account ( ) for \$ and \$ for “ ”. Information was not requested on the payments deposited into personal account, but given the later transactions where is verifying account, the payments received in February and May could be funds raised for and diverted into personal account.

## 2. Unidentified Bank Account

Although provided only bank accounts for , another bank account ( in the name “ ”) was identified as an account. This was opened under EIN, had signature authority on this account and conducted some transactions within this account.

provided a the written response stating this was an account used for , a division/operating arm of , which is discussed previously under “Activities & Operations”.

IDR #004 was issued on August 21, 20XX to obtain information on this account and per the written response received from on behalf of –

*“When and were blended together, an banking account was opened in , where lived. It was a simple account to keep finances separated. We did not want more than one person having access to any one account.”*

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*"Conversely, the banking account was clearly the responsibility of , and to a greater extent . They would know the nature of all of the deposits and withdrawals during the brief life of the account."*

Requested information concerning the purpose of the two deposits into this account from received in 20XX (including \$ on 05/05/20XX and \$ on 05/17/20XX). Per written statement:

*" would be the person who would know about the nature of the two deposits. From the perspective of the home office, made a couple of very generous contributions, they were properly receipted, beyond that, we really don't know anything about ."*

Since this is an account in the name/control of and receipts were issued for the donations, should have knowledge about the transaction in this account and should be responsible for obtaining information relating to this account.

Information Document Request (IDR) #005 was issued on August 21, 20XX on the various activities identified on website. One specific activity asked about . The complete written response from concerning stated: *"Never really did all that much"*. This statement is contradicted by the substantial financial transaction reflected in the account and information discussed under the "Activities & Operations" section of this report.

Given the incomplete information in response to IDR #004, and contradictory information provided to IDR #005, issued IDR #06 on March 18, 20XX to clarify the information needed on the account and to allow one more opportunity to comply with the request for information.

The written response received from stated, in part:

*"My recollection is that there really was not any formal entity."*

*"The "blending" was to combine our efforts, thoughts, manpower, commitment, vision, etc., working together on the same things rather than working on separate things. Blending together two different entities was not at all what was happening, the things I remember had to do with us working together to accomplish whatever we could accomplish. It was nothing more complicated than our being impressed with a very good idea, and our all agreeing that if we could make something happen, we would."*

IDR #006 inquiring specifically why opened a bank account in in the name of rather than under its own name, response stated:



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*"It was my understanding that \_\_\_\_\_ was not its own entity. It was nothing more than a project, program, etc. that fit into the overall mission of \_\_\_\_\_. If there was no \_\_\_\_\_ entity, which was our understanding right from the start, and we wanted a bank account for this project, it would be in the name of \_\_\_\_\_, and not something that did not exist."*

response to IDR #004 stated the bank account in \_\_\_\_\_ was done to "keep finances separated" and they "did not want more than one person having access to any one account". IDR #006 requested a written statement to explain why it was necessary to keep finances separate if these were all part of the same tax-exempt organization. \_\_\_\_\_ response stated:

*"The question suggests that there is something wrong with a church having more than one bank account. The explanation was perfectly acceptable and was precisely what was needed. It was just as necessary to keep financial records as it is for my wife and I to have separate bank accounts. EVERY church I have ever known in my entire life has had more than one bank account for a variety of different reasons, many of which do not have anything to do with "other 501(c)(3) activities". It was necessary because it was what we chose to do."*

IDR #006 requested a written statement to state specifically what 501(c)(3) activities were conducted by \_\_\_\_\_. \_\_\_\_\_ response stated, shown below, did not answer the question as to the activities conducted:

*The question assumes that two different entities were blended together. All activities, no matter what they were, were conducted by \_\_\_\_\_. \_\_\_\_\_ was a project that we were all working on.*

Given that \_\_\_\_\_ / \_\_\_\_\_ has taken the position there is no separate entity/organization called \_\_\_\_\_ and all income/expenses were \_\_\_\_\_ income/expenses, requested again information on the two deposits from \_\_\_\_\_ (totaling \$ \_\_\_\_\_) and unknown deposit of \$ \_\_\_\_\_. \_\_\_\_\_ response stated:

*I am not personally familiar with \_\_\_\_\_, having never met him, talked to him, etc. The purpose of the two deposits was charitable contributions from \_\_\_\_\_. \_\_\_\_\_ did email a thank you note.*

The \$ \_\_\_\_\_ deposit was determined to be part of the funds received from \_\_\_\_\_ discussed earlier in this write-up. It was confusing that \_\_\_\_\_ spreadsheet reflected the withdrawal as paid directly into \_\_\_\_\_ when that is not what happened. \_\_\_\_\_ response also stated: "The purpose of the \$ \_\_\_\_\_ going to \_\_\_\_\_ was an investment; no one ever suggested that the use of funds was anything other than an investment."

IDR #006 requested information and verification (supporting document) of the business purpose on any debit/withdrawal transaction over \$ \_\_\_\_\_. The IDR specifically stated if the supporting documentation did not clearly reflect the 501(c)(3) purpose of the use of the funds, \_\_\_\_\_ was

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requested to provide a written statement to address the tax-exempt purpose of the use of the funds. response stated:

*"Supporting documentation for the use of funds? I don't have a clue what that means, have never heard of such a thing in years of pretty active work in many different churches."*

*"Those individuals who are authorized to have access to any checking account are trusted to not abuse their responsibility to handle a checking account, exactly the same as any organization."*

*"Questions concerning the activity of this account need to be directed to the individuals who obviously have authorization to manage the account. There were no abuses of this, or any other, bank account."*

A meeting was held with on April 18, 20XX to discuss, in part, the response to IDR #006 and to allow to verbally clarify information and to clear up discrepancies between statements he made and information secured from third party contacts. For example, in response to IDR #006, stated is not a separate entity, but is a program/project of . However, stated he has no knowledge of activities or financial transactions and thus deferred the request for information on this account to others. This is particular concerning given was set up in the name and EIN of and had signature authority on the account. Another concern, as stated earlier, the bank account used for was not disclosed for the audit even though it was a division/operating arm of .

During the April 18, 20XX meeting, provided the following information concerning :

- did not generate any funds for , but " was an internal part of ". When asked why was on the bank accounts in , stated she was on the account to have control of the account, but she had no control over expenditures and did not have any of the records for the expenditures.
- Discussed knowledge of who is shown to have a position with met him through stated was a "friend of someone" and business involvement with and stated he had no ; had no knowledge of involvement in ; and he did not think was part of

Reviewed with the two e-mails messages previously discussed under "Activities & Operations" earlier in this report. These e-mails were dated 01/12/20XX and 01/13/20XX



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concerning "Charitable Investment Trust" (CIT) that was being presented to an attorney, . The e-mails indicate the product of CIT was being marketed to and he was questioning the legality of what is being proposed. These e-mails included not only and name on them in the distribution, but also is listed as "Executive Director" of and is listed as " , Director,

In response to presentation of this information, denied all knowledge or involvement with stated he had "no recollection of a call on CIT" with these individuals. Specifically, stated there was no "formal marketing" of CITs and "people knew and presented information" on CIT. further stated: "If people had a charitable intent" was interested in helping them.

- Inquired if there were any legal opinions/private letter rulings concerning CIT to which stated there were no legal opinions, but he had spoken to about this concept and he, , met and through  
\*NOTE – died in approximately November 20XX so it was not possible to confirm any information with .

Since information was obtained through third party contacts, re-visited the issues on the transfers of funds from to and how the transactions all came about stated – as he had stated before – he introduced to and then left the room and let them work out the details.

- stated his "prior understanding" was that made a charitable contribution to and then made the investment into . However, stated that on Wednesday, 04/16/20XX, he spoke at lengths to and now understands the money to was given to so he could serve as the "facilitator" to get/hold money since did not have a bank account at the time was trying to put money into stated he believed from 06/20XX or 07/20XX through 04/16/20XX that had an ownership in .
- stated he "did not ask for annual statement from " and was not actively involved in after a certain point in time. stated for the first six-months after the money was given to he was out there daily "making sure they were doing things".
- stated he is now acknowledging that \$ retained from the \$ received from was for compensation for his services. stated this would not be considered unrelated business income to since it is not income, but was payment for personal services. Discussed the current understanding as to the purpose of the payment – i.e. for making the connection between the parties ("finder's fee"); helping locate



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business location; and taking care of miscellaneous things – to which stated that appears to be the correct information and true facts.

Summary of / involvement in : is now stating he understands he (and bank account) was only involved as “facilitator” to make this a “clean transaction” since was newly formed and did not have bank accounts. The % funds he withheld prior to transferring the bulk of the fund (\$) to was his personal compensation and was not a donation or payment to .

### 3. Excel Spreadsheet of Income/Disbursement

As mentioned earlier, prepared and provided for the audit a spreadsheet itemizing the income, expenses and miscellaneous transactions.

The following was observed by the agent in the review of the spreadsheet provided by :

- The spreadsheet included columns for the four identified business bank accounts as well as the personal bank accounts of and . These accounts were mentioned previously in the report.
- The spreadsheet included various columns for the business expenditures including: Auto Expenses (\$) ; Travel Expenses (\$) ; Office Expenses (\$) and Endowment, Investments and Grants (\$) . There was also a column for Personal (\$) which is represented to be the total amount the spent on their personal expenses.

Using the spreadsheet, prepared and provided a Summary Statement which provided the following information concerning their personal income and expenses:

<b>Personal Income</b>	
Social Security:	\$
Unemployment:	\$
	\$
<b>Total Income:</b>	<b>\$</b>



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<b>Personal Accounting</b>	
Spent on Personal Living:	\$
Social Security:	\$
Unemployment:	\$
Loans:	\$
Funds Available from	\$
<hr/>	
Loans, Gifts, Sale of Assets, Etc:	\$

The                      determined the amount received from                      based on the total amount spent (\$                      ) included under the "Personal" column of the spreadsheet. Problem is the amount included under personal was not a complete and correct accounting for the personal expenses. Some of the expenses listed as business expenses were not verified to be for business.

For example – in reviewing a sample of the expenses listed on the spreadsheet – there were many expenses that were allocated to "Travel Expenses" which, per review of the actual receipts, were for meals for two in                      ,                      which is where the                      reside; some of the expenses paid out of                      personal account was for her personal use (such as airfare on Southwest Airlines to visit her family in                      ,                      and other meal expenses in                      ,                      ), but were allocated to "Travel Expenses"; all gasoline and other vehicle expenses were listed under "Auto Expense" or "Travel Expenses" even though the                      only had one vehicle used for personal and business. None of the receipts reviewed had an annotation of any business purpose for the expense.                      verbally stated everything he does is related to                      so almost everything should be/could be considered a business expense of                      .

One of the identified expenses for "Auto" expense was \$                      on 07/13/20XX.                      stated this was for the purchase of a new used vehicle (19XX Lincoln Town Car) which is used                      % for business. This vehicle was purchased in, and remained in,                      personal name.

The vehicle owned prior to the 19XX Lincoln Town Car, also in                      personal name, was given as a gift to one of                      friends (                      ).

                    stated                      only owned and used one vehicle at a time. This one vehicle was used for                      activities as well as for                      and                      personal use such as shopping, eating out, going to the movies, etc.



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- Included on the spreadsheet was a column for "donations". did not have the typical donations that a church should have. The amount reported as "Donations" was reviewed and agent's findings were as follows:

a) – Donations received and deposited into the ( ) from January through May 20XX totaled \$ . As discussed earlier under "Activities", was represented to be a program/project fiscally sponsored by . agreed to sponsor pro bono as gift to them. However, even though was set up for a specific purpose and the funds were being raised for a specific purpose, decided to withdraw funds to compensate for the time she spent on activities and the needed the funds to pay for their personal living expenses.

b) – Three (3) payments were received from and were deposited into ( ). This included \$ received by wire transfer on June 10, 20XX; \$ received by wire transfer on July 1, 20XX and \$ received on November 7, 20XX. The two \$ were described on spreadsheet as "Donation or Loan", but was posted under the column as a donation.

Even though initially claimed the two large payments from were either a donation or loan, as discussed earlier in the report under Activities/ , these payments were determined to be an investment by into the for-profit business .

\$ payment on November 7, 20XX was supposed to be used for a specific fundraising event to be held at a local casino to benefit . Documents provided for the audit indicated part of the fundraising would have included having some of products (vehicles) available and having pictures taken with the movie stars and the vehicles. There would be a charge for these pictures, but all the funds raised would go to the program. The event did not occur since the planning started too late.

Although this event was presented as a possibly charity fundraiser, information secured for the audit included a series of e-mails that discussed the event and one of the persons involved, (then president of ) stated in his e-mail: "*This is charity to promote ( ), , and .*" These are not recognized charities and it although it appears this was represented as an event to raise funds for , but may also have been planned to promote for-profit business and their products.

c) – On August 5, 20XX a \$ deposit was made into account ( ). This was recorded as "Donation – " on the spreadsheet provided by . The bank statements indicated the received the



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amount by wire transfer from . The bank statements reflected \$ of the donated funds were wire transferred on August 10, 20XX to .

More information was needed on the purpose of the distribution to as this may not be an exempt purpose. initially stated the \$ was received from and was requested to give \$ to for a scholarship fund. When it was pointed out the bank statement shows as the individual who wired the funds, stated did not have any money so funds came from his father ( ). IDR #002 was issued to obtain additional information on transaction.

Received a written response from and also verbally discussed the transaction. stated was a "forwarding agent" in this situation. The funds received from were forwarded to located in which is where was originally from. stated they forwarded the money, but did not have any knowledge or records to confirm what the money was spent on.

The written response received stated was a friend of and had known for many years. The \$ received from was given to "to be used for scholarships". " is a television marketing company. They look for promising inventors by offering scholarships, most of which never amount to anything for . The hope is that at some point some creative mind will come up with a "pet rock" and everyone makes millions of dollars."

"I really don't know much more about or what happened. As over the years I have continued to work with on a number of other charity projects, the subject never comes up. My guess, the funds went to and was used for exactly what it was intended."

Conducted some Internet research and located an article dated August 9, 20XX that provided more information on and provide information on . Specifically the article stated in part:

*"Within the next several weeks, will launch , a social network that solicits creative ideas from individuals who lack resources to take their idea to market. The inventor submits an idea, and then it's reviewed. If chosen, the idea is patented, developed, produced and marketed. If successful, the inventor then gets a portion of the proceeds."*

*"The created by will allow residents of to submit their ideas free of charge. U.S. residents pay \$ to submit an idea."*



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*"The program is coming to only with a great deal of work. , a collaborator on the project, said he's working with some of the top law firms and real estate developers in to promote it."*

The \$ donation received from and subsequently \$ paid to is not a clear transaction. The disbursement has been represented as payment to an overseas company and the company appears to be a for-profit organization. may be serving as a fiscal sponsor since stated they are the "forwarding agent". has nothing to show what the funds were actually spent on. does not have discretion and control of the funds and there is no evidence the funds were used for any exempt purpose.

Third party contact to was considered, but died in April 20XX and therefore could not be contacted.

The above three mentioned sources were the only donors to in 20XX per review of the provided financials.

➤ Tithes paid to "

In reviewing the disbursements on the spreadsheet provided by , regular payments were paid out of personal accounts ( and later changed to ) to an entity called ". The spreadsheet labeled these amounts as "Tithe". Given the reoccurring payments and the label for these payments, it appears this may be a church attends and she may be a member of this church. Internet research identified a church by this name located at . There were a total of 12 payments totaling \$ .

#### 4. Payments/Reimbursements to

In the 19XXs, an agreement was reached between and (his father ) to compensate by giving him \$ a month and was to pay all expenses related to . stated this was the "model" and he never received the \$ per month since the money was not there. stated the agreement was in writing, but when got divorced from his ex-wife in 19XX, the ex-wife destroyed the documents.

According to , the written agreement with stated that he was entitled to the reimbursement of certain expenses relating to operation including: 1) auto related expenses such as gas, repairs, insurance, etc.; 2) travel expenses such as airfare, lodging, meals, etc.; 3) normal business expenses such as office supplies, telephone, postage, etc.; 4) health care expenses for and his family.



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Below is a listing of these expenses, along with the agent's findings, regarding payments to for these expenses during the audit year.

- 1) Auto related expenses – The spreadsheet reflected \$ allocated to “Auto Expenses”.

stated he did not keep a log of the business trips, the business mileage and purpose of the travel since everything he does is for the benefit of and therefore he did not think this was something that needed to be kept.

In reviewing the expenses allocated to this category, there were several expenses for “gas” but some was purchased at locations which sell more than gasoline. For example, there were 119 debits to “ ” ( ) ranging from \$ to \$ each totaling \$ . Also in this category was the purchase of a 19XX Lincoln Town Car (\$ ) that was purchased in personal name. Other expenses in this category included insurance and repairs for the vehicles.

➤ Some of the expenses in this category appear to be personal.

- 2) Travel expenses – The spreadsheet reflected \$ allocated to “Travel Expenses”.

stated he traveled out of town to various locations for business; he did not keep a log of where he traveled and purpose of trips; and just about everything he does is done on behalf of so pays all of the expenses. stated he often stayed with friends or slept in the car so there would not be many hotel/lodging receipts.

Reviewed the available receipts and noted none of them included a business purpose for the expense; none of the meals receipts reflected who attended the meal and the majority of the meal receipts were for local ( ) expenses for two meals.

In reviewing the expenses allocated to this category, every single meal charged to the debit card, for the business or personal accounts, were listed as travel expense. As stated above, the majority of the meals were for local ( ) expenses for two meals. In addition to the meal expenses, there were three airline tickets on Southwest Airlines paid out of personal bank account that were listed as travel expense, but were for trips took to visit her family in , .

➤ Some of the expenses in this category appear to be personal.

- 3) Business related items –The spreadsheet reflected \$ allocated to “Office Expenses”.

The expenses in this category were not substantiated to be for business purpose. For example: \$ was an on-line transfer to on July 5, 20XX; there were debits totaling \$ to “ ” an -accredited domain registrar and web hosting company; debits paid from personal account for “



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”; wire transfer fees for wires not related to business; monthly service fees for  
personal account; \$ for on 02/17/20XX; \$  
fee for ; several fees paid to wireless in the name of  
( son).

➤ Some of the expenses in this category appear to be personal.

4) Health care – No health care expenses paid by on behalf of or his family.

### Miscellaneous Information:

#### 1. Meeting Held April 18, 20XX

A final meeting was held with on April 18, 20XX to review information obtained during the audit and to allow to clarify information, answer questions and to provide any other information wanted considered for the audit.

Discussed “contributions” received from – Information was received from third party contact, , that he has provided funds to multiple times, including \$ for an investment and various loans, and provided receipts for charitable contributions so that so he could claim a deduction on his Form 1040. Provided to / were copies of some of receipts (for 20XX and 20XX) and e-mails which showed repayment of some funds and purpose of the payments from to .

- Inquired why considered the payments from to to be charitable donations and why receipts were provided when these do not appear to be charitable contributions. stated he could not explain why receipts were given and he stated “*it was wrong*”.

Discussed with information obtained from third party contacts could not verify that did anything specific to being a church. No one could verify himself was a minister, conducted services, preached to them or prayed with them. In addition, review of the records provided for the audit did not verify was operating as a church. Reminded that during the Church Tax Inquiry phase of the examination, response submitted on 01/31/20XX by on behalf of stated if they had a one-year grace period they could be in full-compliance with the IRS characteristics of a church.

- Inquired what actions had been taken to change the activities. stated they are not doing anything. No changes had been made.

Provide copy of documents secured from websites and/or from third party contacts concerning setting up “Personal/Private Charities”; having a Charitable Investment Trust (CIT); and Group Exemption Letter for Trusts and all of this was done under the guise of “Personal



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Charity Model". Explained there are private foundations and public charities, but no such entity as a "personal charity" and/or "private charity".

- stated he could not explain why he took the position he took in regards to setting up these types of organizations, but he pointed out the information the agent provided was very old – before 20XX – and this is not happening now. This statement was contradicted by stating the last Charitable Investment Trust that he recalls setting up was for (possibly 20XX given bank deposits from ). recently passed away and could not be contacted.

Another topic discussed with was the statements made numerous times during the audit that % of his time and effort related to handling church and/or other tax-exempt activities and the information provided/obtained during the audit indicated this may not be true. For example, specific information was available that may have been involved in a for-profit organization called “ ”.

- stated “ ” was formed as a “consulting company” many years ago and is no longer around. They did not have any funding; never had a bank account; it was just some ideas they ( and ) thought about. was presented a document with letterhead dated 05/04/20XX. This was a letter sent in May 20XX to , Chief Development Officer, of soliciting business. stated he may have sent the letter, but he never received any income from it.

## 2. Employment Taxes

Review of the records confirmed did not pay any employment taxes for the compensation to and nor did they issue any Form 1099s for payments to individuals. In discussing the employment tax issue with , stated has never filed any employment tax returns and they, the , do not make enough income to file a personal income tax return (Form 1040). As discussed under the Financial, provided a summary of their expenses and this document showed an allocation of \$ from to the personal expenses of the . At a minimum, the amount reported on the summary should have been subject to employment taxes. In addition, the \$ represented as personal paid by was not correct since there were other personal expenses paid by as well as several transfers into the personal accounts of the .

## 3. Current Website Info:

Review current website and some new documents were posted which do not indicate is operating as a church nor are they operating for any purpose stated in IRC §501(c)(3). The pages reviewed were shared with and are included in the Administrative Record.



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**LAW:**

Section 501(a) exempts organizations described in Section 501(c) of the Code from federal income taxation.

Section 501(c)(3) of the Code exempts from federal income tax organizations organized and operated exclusively for charitable, educational, and other exempt purposes, provided that no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the regulations, organizational and operations tests, provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes, only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(2) of the regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part inure to the benefit of private shareholders of individuals.

Section 1.501(c)(3)-1(d)(ii) of the regulations provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Section 1.501(c)(3)-1(d)(2) of the regulations defines the term "charitable" for 501(c)(3) purposes as including relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of Government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency.

The term "charitable" also includes the advancement of education. Section 1.501(c)(3)-1(d)(3)(i) of the regulations provides, in part, that the term "educational" as used in section 501(c)(3) of the



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Code relates to the instruction of the public on subjects useful to the individual and beneficial to the community.

The term "charitable" as used in Section 501(c)(3) is used in its generally accepted legal sense and therefore is not to be construed as limited by the separate enumerations in section 501(c)(3). See Redland Surgical Services v. Commissioner, 113 T.C. 47 (1999), aff'd per curiam, 242 F.3d 904 (9<sup>th</sup> Cir. 2001).

To be an organization described in Section 501(c)(3), the entity must be organized and operated exclusively for charitable, educational or other exempt purposes and may not permit any of its net earnings to inure to the benefit of any private shareholder or individual. The requirements are stated in the conjunctive and failure to satisfy any one requirement results in the organization failing to meet the requirements of section 501(c)(3). American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989).

The existence of a single nonexempt purpose, if substantial in nature, will cause failure of the operational test, regardless of the number or importance of truly exempt purposes. Better Business Bureau v. United States, 326 U.S. 279 (1945). See also Stevens Bros. Foundation, Inc. v. Commissioner, 324 F.2d 633, 638 (8<sup>th</sup> Cir. 1963), cert denied, 376 U.S. 969 (1964)(if there is present in an organization's operations a single noncharitable purpose substantial in nature, though it may have other truly and important charitable purposes, it is not entitled to be exempt).

In United States v. Wells Fargo Bank, 485 U.S. 351, 108 S. Ct. 1179, 99 L. Ed. 2d 368 (1990) the Supreme Court held that an organization must prove unambiguously that it qualifies for a tax exemption.

In Harding Hospital, Inc. v. United States, 505 F.2d 1068 (1974), the court held that an organization seeking a ruling as to recognition of its tax exempt status has the burden of proving that it satisfies the requirements of the particular exemption statute. Whether an organization has satisfied, the operational test is a question of fact.

An organization's purposes may be inferred from the manner in which it conducts its activities. See Living Faith v. Commissioner, 950 F.2d 365, 372 (7<sup>th</sup> Cir. 1991), aff'g T.C. Memo. 1990-484; B.S.W. Group v. Commissioner, 70 T.C. 352, 358 (1978).

An organization is not organized or operated exclusively for an exempt purpose unless it serves a public rather than a private interest. To meet this requirement, an organization must establish "that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests." TR 1.501(c)(3)-1(d)(1)(ii). Prohibited private interests include those of unrelated third parties as well as insiders. Christian Stewardship Assistance, Inc. v. Commissioner, 70 T.C. 1037 (1978);



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American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989). Private benefits include an "advantage; profit; fruit; privilege; gain; [or] interest." Retired Teachers Legal Fund v. Commissioner, 78 T.C. 280, 286 (1982).

In International Postgraduate Medical Foundation v. Commissioner, T.C. Memo. 1989-36, one individual controlled both a nonprofit that ran tours aimed at doctors and their families and a for-profit travel agency that handled all the nonprofit's tour arrangements. The non-profit spent 90 percent of its revenue on travel brochures prepared to solicit customers for tours arranged by the travel agency. The tours were standard sightseeing trips, with little of the alleged medical education that was the basis for exemption. The Tax Court held the petitioner was not tax exempt. It was operated for the benefit of private interests, namely the founder's travel agency. The court found that a substantial purpose of the nonprofit was to increase the income of the travel agency. See also est of Hawaii v. Commissioner, 71 T.C. 1067 (1979)

Section 6001 of the Code states that "Notice or regulations requiring records, statements, and special returns," provides that every person liable for any tax imposed by this title (Title 26 of the United States Code, which is the Internal Revenue Code), or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title.

Section 1.6001-1(a) of the Procedure and Administration Regulations provides, in general, that any person subject to tax under subtitle A of the Code or any person required to file an information return with respect to income shall keep such permanent books of account or records, including inventories, as are sufficient to establish the amount of gross income, deductions, credits, or other matters required to be shown by such person in any return of such tax or information.

Section 1.6001-1(c) of the regulations provides that for exempt organizations, in addition to such permanent books and records required by section 1.6001-1(a) with respect to the tax imposed by section 511 on the unrelated business income of certain exempt organizations, every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements.

Section 1.6001-1(e) of the regulations, Retention of records, provides that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.



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Regulation Section 1.6033-2(h)(1) states "the term *integrated auxiliary of a church* means an organization that is... (i) Described in both section 501(c)(3) and 509(a)(1), (2), or (3); (ii) Affiliated with a church or convention or associate of churches; and (iii) Internally supported."

Regulation Section 1.6033-2(h)(2) states "An organization is affiliated with a church... for paragraph (h)(1)(ii) of this section if:

- (i) The organization is covered by a group exemption letter issued under applicable administrative procedures... to a church or a convention or association of churches;
- (ii) The organization is operated, supervised, or controlled by or in connection with... a church or a convention or association of churches; or
- (iii) Relevant facts and circumstances show that it is so affiliated."

Regulation Section 1.6033-2(h)(3) pertains to the facts and circumstances and states "For purposes of paragraph (h)(2)(iii) of this section, relevant facts and circumstances that indicate an organization is affiliated with a church or a convention or association of churches include the following factors. However, the absence of one or more of the following factors does not necessarily preclude classification of an organization as being affiliated with a church or a convention or association of churches —

- (i) The organization's enabling instrument (corporate charter, trust instrument, articles of association, constitution or similar document) or by-laws affirm that the organization shares common religious doctrines, principles, disciplines, or practices with a church or a convention or association of churches;
- (ii) A church or a convention or association of churches has the authority to appoint or remove, or to control the appointment or removal of, at least one of the organization's officers or directors;
- (iii) The corporate name of the organization indicates an institutional relationship with a church or a convention or association of churches;
- (iv) The organization reports at least annually on its financial and general operations to a church or a convention or association of churches;
- (v) An institutional relationship between the organization and a church or a convention or association of churches is affirmed by the church, or convention or association of churches, or a designee thereof; and
- (vi) In the event of dissolution, the organization's assets are required to be distributed to a church or a convention or association of churches, or to an affiliate thereof within the meaning of this paragraph (h)."

Treasury Decision (TD) 8640 states "This document contains final regulations that exempt certain integrated auxiliaries of churches from filing information returns. These regulations incorporate the rules of Rev. Proc. 86-23 (1986-1 C.B. 564), into the regulations defining integrated auxiliary for purposes of determining what entities must file information returns. The new definition focuses



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on the sources of an organization's financial support *in addition to the nature of the organization's activities.*"

### Operational Test

Section 1.501(c)(3)-1(c)(1) of the regulations states that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

"Exclusively" in the statutory context is a term of art and does not mean "solely" or without exception, but the nonexempt activities must be incidental and insubstantial. Universal Life Church, Inc. v. United States, 13 Cl. Ct. 567 (1987). An organization is operated exclusively for exempt purposes if it engages in primarily exempt activities. An organization must not engage in substantial activities that fail to further an exempt purpose.

The operational test of Section 1.501(c)(3)-1(c)(1) of the regulations is designed to insure that the organization's resources and activities are devoted to furthering exempt purposes. The operational test examines the actual purpose for the organization's activities and not the nature of the activities or the organization's statement of purpose. What an organization's purposes are and what purposes its activities support are questions of fact. To pass the operational test, the organization must be primarily engaged in activities which accomplish one or more of the exempt purposes specified in Section 501(c)(3) and the net earnings must not be distributed in whole or in part for the benefit of private shareholders or individuals. American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989).

The courts have developed various factors to consider in determining whether an organization promotes a forbidden nonexempt purpose under section 501(c)(3). The factors are as follows: (a) the manner in which an organization conducts its activities; (b) the commercial hue or nature of the activities; (c) the competitive nature of the activities; (d) the existence of accumulated monies which have not been distributed; and (e) the provision of free or below cost services. Presbyterian and Reformed Publishing Co. v. Commissioner, 743 F.2d 148 (3<sup>rd</sup> Cir. 148).

Assuming that an organization qualifies for exemption under section 501(c)(3), contributions to individuals, non-charitable organizations and to non-charitable activities in furtherance of the organization's exempt purpose does not result in loss of exempt status (assuming there is no inurement or private benefit), especially when the contributions are insubstantial. See Center on Corporate Responsibility, Inc. v. George P. Shultz, 368 F. Supp. 863 (D.D.C. 1973) in which the Court stated:



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The Defendants' Revenue Rulings, as well as case law clearly permit charitable organizations to contribute their proceeds both to individuals, Rev. Rul. 56-304, 1956-2 C.B. 306; Rev. Rul. 72-559, 1972-2 C.B. 247; and to non-charitable activities in the furtherance of its charitable purposes. Rev. Rul. 73-313, 1973-30 I.R.B. 15; Rev. Rul. 71-29, 1971-1 C.B. 150; Rev. Rul. 62-78, 1962-1 C.B. 86; Edward Orton, Jr., Ceramic Foundation, 65 T.C. 147.

Revenue Ruling 56-304, 1956-2 C.B. 306 states that an organization which otherwise meets the requirements for exemption from Federal income tax are not precluded from making distributions of their funds to individuals, provided such distributions are made on a true charitable basis in furtherance of the purposes for which they are organized. However, organizations of this character which make such distributions should maintain adequate records and case histories to show the name and address of each recipient of aid; the amount distributed to each; the purpose for which the aid was given; the manner in which the recipient was selected and the relationship, if any, between the recipient and (1) members, officers, or trustees of the organization, (2) a grantor or substantial contributor to the organization or a member of the family of either, and (3) a corporation controlled by a grantor or substantial contributor, in order that any or all distributions made to individuals can be substantiated upon request by the Internal Revenue Service.

Revenue Ruling 68-489, 1968-2 C.B. 210, held that an organization will not jeopardize its exemption under section 501(c)(3) of the Code, even though it distributes funds to nonexempt organizations, provided it retains control and discretion over use of the funds and maintains records establishing that the funds were used for section 501(c)(3) purposes. The distributions must be to specific projects that are in furtherance of the organization's own exempt purposes and the organization must maintain records establishing that the funds were used for section 501(c)(3) purposes.

When contributions are restricted by the donor to a class of beneficiaries, the class of beneficiaries may be too narrow to qualify as a deductible charitable contribution. In Charleston Chair Company v. United States, 203 F. Supp. 126 (E.D. S.C. 1962), a corporation was denied a deduction for amounts given to a foundation established to provide education opportunities for employees and their children. The narrow class of persons who might benefit, the restricted group that did actually benefit and the preference given to the son of the director, stockholder and trustee indicated that the Foundation was not operated exclusively for charitable persons.

The term "educational" as used in section 501(c)(3) relates to the instruction or training of an individual for the purpose of improving or developing his capabilities or the instruction of the public on subjects useful to the individual and beneficial to the community. Educational organizations are classified as charitable. See Section 1.501(c)(3)-1(d)(3) of the regulations.

Revenue Ruling 67-4, 1967-1 C.B. 121, provides the following criteria to determine whether the publishing and distribution of materials are directed to attaining the purposes specified in section 501(c)(3):



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1. the content of the publication is educational;
2. the preparation of the material is necessary or valuable in achieving the organization's educational and scientific purpose;
3. the distribution of the material is necessary or valuable in achieving the organization's educational and scientific purpose; and
4. the manner in which the distribution is accomplished is distinguishable from ordinary commercial publishing practices

Part of the educational analysis determines whether the education benefits the private interest of the individuals receiving the information and whether the individuals who receive the education are in a charitable class. Retired Teachers Legal Defense Fund, Inc. v. Commissioner, 78 T.C. 280 (1982) (organization which issued newsletter to New York City Teacher Retirees advising them of status of litigation held not be exempt. The information was only useful for the retirees' private interests---to ensure the financial stability of pension plan. Moreover, most of the retirees were not members of a charitable class. The provision of free services to persons who are not poor is not an exempt purpose and aid to pensioners without regard to need is not a charitable purpose).

### Church Status

An organization qualifies as a church only if its principal purpose or function is that of a church. See Rev. Rul. 56-262, 1956-1 C.B. 131.

In the absence of Congressional guidance and without any guidance from within the regulations themselves, courts have developed at least three different approaches to determine whether a taxpayer qualifies as a "church" for purposes of section 170(b)(1)(A)(i)." (*Foundation of Human Understanding v. United States*, 88 Fed. Cl. 203 (Ct. Cl. 2009)) These approaches include:

- The De La Salle approach
- The Fourteen Criteria
- The Associational test

The De La Salle approach, from the case of *De La Salle Institute v. United States*, 195 F. Supp. 891 (N.D.Cal. 1961), defines the term "church" by "the common meaning and usage of the word." In decisions subsequent to *De La Salle*, courts have declined to adopt the approach taken by the *De La Salle* court.

The IRS first introduced the Fourteen Criteria in a speech in 1977. These criteria were first adopted in *American Guidance Foundation, Inc. v. U.S.*, 490 F.Supp. 304 (D.D.C. 1980), and by subsequent courts. These criteria are:



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- 1) A distinct legal existence
- 2) A recognized creed and form of worship
- 3) A definite and distinct ecclesiastical government
- 4) A formal code of doctrine and discipline
- 5) A distinct religious history
- 6) A membership not associated with any church or denomination
- 7) An organization of ordained ministers
- 8) Ordained ministers selected after completing prescribed studies
- 9) A literature of its own
- 10) Established places of worship
- 11) Regular congregations
- 12) Regular religious services
- 13) Sunday schools for the religious instruction of the young
- 14) Schools for the preparation of its ministers

No single factor is controlling, although all fourteen may not be relevant to a given determination.

The court in *American Guidance* supra, set forth an associational test in reference to the Fourteen Criteria. "While some of these are relatively minor, others, e. g. the existence of an established congregation served by an organized ministry, the provision of regular religious services and religious education for the young, and the dissemination of a doctrinal code, are of central importance. The means by which an avowedly religious purpose is accomplished separates a "church" from other forms of religious enterprise. At a minimum, a church includes a body of believers or communicants that assembles regularly in order to worship. Unless the organization is reasonably available to the public in its conduct of worship, its educational instruction, and its promulgation of doctrine, it cannot fulfill this associational role".

The Court of Appeals for the Federal Circuit further discusses the associational test in *Foundation of Human Understanding v. United States*, 614 F. 3d. 1383. (C.A.Fed. 2010) "We agree that the associational test is an appropriate test for determining church status under section 170, although we recognize that the associational test and the '14 criteria test' substantially overlap; as courts have pointed out, among the most important of the 14 criteria are the requirements of 'regular congregations' and 'regular religious services'. See *Spiritual Outreach*, 927 F.2d at 339; Am. Guidance, 490 F.Supp. at 306.

Thus, whether applying the associational test or the 14 criteria test, courts have held that in order to be considered a church under section 170, a religious organization must create, as part of its religious activities, the opportunity for members to develop a fellowship by worshipping together. See *Church of Eternal Life*, 86 T.C. at 924 ('A church is a coherent group of individuals and families that join together to accomplish the religious purposes of mutually held beliefs. In other words, a church's principal means of accomplishing its religious purposes must be to assemble regularly a group of individuals related by common worship and faith.'). The Supreme Court denied certiorari. (*Foundation of Human Understanding v. U.S.*, 131 S.Ct. 1676 (U.S. 2011))



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In *Bubbling Well Church of Universal Love, Inc. v. Commissioner*, 74 T.C. 531 (1980), an action for declaratory judgment pursuant to section 7428(a), the Tax Court considered an adverse ruling by the IRS on an application for exempt status as a church. The applicant had declined to furnish some information, and made answers to other inquiries that were vague and uninformative. Based on the record, the Court held that the applicant had not shown that no part of its net earnings inures to the benefit of the family or that petitioner was not operated for the private benefit.

In *Chapman v. Commissioner*, 48 T.C. 358, 367-369 (1967), an interdenominational organization sent out evangelical teams to preach throughout the world and to establish small indigenous churches. These teams used dental services as the initial means by which they contacted prospective converts to Christianity. The court held that the organization was not a church for federal tax purposes, in part because "[a] sizable segment of its efforts to propagate the faith was performed on an individual basis." Judge Tannenwald explained that "the word 'church' implies that an otherwise qualified organization bring people together as the principal means of accomplishing its purpose ... The permissible purpose may be accomplished individually and privately ... but it may not be accomplished in physical solitude." The organization's religious services and preaching, though functions normally associated with a church, were not its primary activities and therefore were not determinative of church status.

### Inurement

Section 1.501(c)(3)-1(c)(2) of the regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. Inurement and/or private benefit of the section 501(c)(3) organizations' assets in any form or amount is prohibited.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest.

To be eligible for tax-exempt status, no part of an organization's net earnings may inure to the benefit of any private shareholder or individual. *Airlie Found., Inc. v. United States*, 826 F. Supp. 537, 549 (D.D.C. 1993), aff'd, 55 F.3d 684 (D.C.Cir. 1995).

Inurement is any transfer of charitable assets to the organization's insiders for which the organization does not receive adequate consideration. Inurement can take many forms. Unaccounted for diversions of a charitable organization's resources by one who has complete and unfettered control can constitute inurement. The provision of inurement can be direct or indirect.

Control of the organization by an individual or for-profit entity gives rise to a presumption that the entity is operated for the benefit or the controlling individual or entity. Even a relatively small benefit to officers or directors is sufficient to defeat tax-exempt status for a purportedly nonprofit



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entity. Founding Church of Scientology v. United States, 188 Ct. Cl. 490, 412 F.2d 1197, 1202 (Ct. Cl. 1969), cert. denied, 397 U.S. 1009 (1970). The Service has the authority to revoke an organization's exempt status for inurement regardless of the amount of inurement. See The Founding Church of Scientology, 412 F.2d at 1202.

In People of God Community v. Commissioner, 75 T.C. 127, 133 (1980), the Tax Court denied tax exempt status to an organization whose controlling member received compensation based upon a percentage of the organization's gross receipts

### Private Benefit

The prohibition against private benefit shares common elements with, but is distinct from, the proscription against inurement of organizational earnings to private shareholders and individuals. Private benefit encompasses not only benefits conferred on insiders having a personal and private interest in the organization, but also benefits conferred on unrelated or disinterested persons. When an organization operates for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled directly or indirectly, by such private interests, the organization by definition does not operate exclusively for exempt purposes. Prohibited private benefits may include an advantage, profit, fruit, privilege, gain, or interest. Occasional economic benefits flowing to persons as an incidental consequence of an organization pursuing exempt charitable purposes will not generally constitute private benefits. See Redland Surgical Services v. Commissioner, 113 T.C. 47 (1999); American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989) (activities substantially benefited the private interests of the Republican Party).

An organization's property may be impermissibly devoted to a private use where private interests have control, directly or indirectly, over its assets, and thereby secure nonincidental private benefits. Private benefit means conferring a benefit upon an individual or entity, but is distinguished from inurement in that it may or may not involve diversion of charitable assets. It also differs from inurement in that it can be conferred on both insiders and outsiders. Sometimes a private benefit is not solely financial.

If an organization provides benefits to charitable class, this factor is considered in determining whether the exemption should be denied. See Aid to Artisans, Inc. v. Commissioner, 71 T.C. 202, 212-213 (1978), acq. 1981-2 C.B. 1.

In The Church of Boston v. Commissioner, 71 T.C. 102 (1978), the court found the church's documentation inadequate where the records of its grants to individuals were a list of grants made to individuals which included the name of the recipient, the amount of the grant, and the "reason" for the grant which was specified as either unemployment, moving expenses, school scholarship, or medical expense. The court concluded that this stated documentation failed to establish whether exempt charitable purposes were served in fact.



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### Earmarking and Foreign Conduit

The organizational and operational requirements of both Section 501 and Section 170(c)(2) have similarities. To the extent that the provisions of Section 170(c)(2) parallel those of Section 501(c)(3), the Service gives them the same meaning. Refer to GCM 35319, 1973 GCM Lexis 246 (April 27, 1973)

Section 170 of the Code provides, in material part, as follows:

Assuming that an organization otherwise meets the requirements set forth in section 170 (c) (2) of the Code, a further problem arises where that organization is required to turn all or part of its funds over to a foreign charitable organization. As noted above, contributions directly to the foreign organization would not be deductible. The question presented here is whether the result should differ when funds are contributed to a domestic charity, which then transmits those funds to a foreign charitable organization.

Prior to the passage of the Revenue Act of 1938, there were no restrictions as to the place of creation of charitable organizations to which individuals might make deductible contributions. (Section 102 (c) of the Revenue Act of 1935, which first permitted a deduction for *corporate* charitable contributions, limited that deduction to contributions to "domestic" organizations which used such contributions within the United States.) The rule as to individual contributions was changed with the passage of the Revenue Act of 1938. Section 23 (o) of that Act provided that contributions by individuals were deductible only if the recipient was a "domestic" organization. See discussion of that section in Ways and Means Committee Report, H.R. Report No. 1860, Seventy-fifth Congress, Third Session, C.B. 1939-1 (Part 2), 728, at 742. Section 224 of the Revenue Act of 1939 substituted for the requirement that a qualifying organization be "domestic," the requirement that it have been "created or organized in the United States or in any possession thereof," etc. In substantially the same form, this requirement was re-enacted as section 170 (c) (2) (A) of the 1954 Code.

At the outset, it should be noted that section 170 (c) (2) (A) of the Code relates only to the place of creation of the charitable organization to which deductible contributions may be made and does not restrict the area in which deductible contributions may be used. Compare the last sentence in section 170 (c) (2) of the Code, which requires that certain *corporate* contributions be used within the United States. Accordingly, the following discussion should not be construed as limiting in any way the geographical areas in which deductible contributions by individuals may be used.

The deductibility of the contributions here at issue will be discussed in connection with five illustrative examples set out below. The "foreign organization" referred to in each of the examples is an organization which is chartered in a foreign country and is so organized and operated that it meets all the requirements of section 170 (c) (2) of the Code excepting the requirement set forth in section 170 (c) (2) (A) of the Code. The "domestic organization" in each example is assumed to



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meet all the requirements in section 170 (c) (2) of the Code. In each case, the question to be decided is whether the amounts paid to the domestic organization are deductible under section 170 (a) of the Code.

(1) In pursuance of a plan to solicit funds in this country, a foreign organization caused a domestic organization to be formed. At the time of formation, it was proposed that the domestic organization would conduct a fund-raising campaign, pay the administrative expenses from the collected fund and remit any balance to the foreign organization.

(2) Certain persons in this country, desirous of furthering a foreign organization's work, formed a charitable organization within the United States. The charter of the domestic organization provides that it will receive contributions and send them, at convenient intervals, to the foreign organization.

(3) A foreign organization entered into an agreement with a domestic organization, which provides that the domestic organization will conduct a fund-raising campaign on behalf of the foreign organization. The domestic organization has previously received a ruling that contributions to it are deductible under section 170 of the Code. In conducting the campaign, the domestic organization represents to prospective contributors that the raised funds will go to the foreign organization.

(4) A domestic organization conducts a variety of charitable activities in a foreign country. Where its purposes can be furthered by granting funds to charitable groups organized in the foreign country, the domestic organization makes such grants for purposes, which it has reviewed and approved. The grants are paid from its general funds and although the organization solicits from the public, no special fund is raised by a solicitation on behalf of particular foreign organizations.

(5) A domestic organization, which does charitable work in a foreign country, formed a subsidiary in that country to facilitate its operations there. The foreign organization was formed for purposes of administrative convenience and the domestic organization controls every facet of its operations. In the past, the domestic organization solicited contributions for the specific purpose of carrying out its charitable activities in the foreign country and it will continue to do so in the future. However, following the formation of the foreign subsidiary, the domestic organization will transmit funds it receives for its foreign charitable activities directly to that organization.

It is recognized that special earmarking of the use or destination of funds paid to a qualifying charitable organization may deprive the donor of a deduction. In *S. E. Thomason v. Commissioner*, 2 T.C. 441 (1943), the court held that amounts paid to a charitable organization were not deductible where the contributions were earmarked for the benefit of a particular ward of the organization. Similarly, see Revenue Ruling 54-580, C.B. 1954-2, 97. These cases indicate that an inquiry as to the deductibility of a contribution need not stop once it is determined that an amount has been paid to a qualifying organization; if the amount is earmarked, then it is appropriate to look beyond the fact that the immediate recipient is a qualifying organization to determine whether the payment constitutes a deductible contribution.



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Similarly, if an organization is required for other reasons, such as a specific provision in its charter, to turn contributions, or any particular contribution it receives, over to another organization, then in determining whether such contributions are deductible it is appropriate to determine whether the ultimate recipient of the contribution is a qualifying organization. It is well established in the law of taxation that "A given result at the end of a straight path is not made a different result because reached by following a devious path." *Minnesota Tea Co. v. Helvering*, 302 U.S. 609, at 613, Ct. D. 1305, C.B. 1938-1, 288; *George W. Griffiths v. Helvering*, 308 U.S. 355, at 358, Ct. D. 1431, C.B. 1940-1, 136. Moreover, it seems clear that the requirements of section 170 (c) (2) (A) of the Code would be nullified if contributions inevitably committed to go to a foreign organization were held to be deductible solely because, in the course of transmittal to the foreign organization, they came to rest momentarily in a qualifying domestic organization. In such cases, the domestic organization is only nominally the donee; the real donee is the ultimate foreign recipient.

Accordingly, the Service holds that contributions to the domestic organizations described in the first and second examples set forth above are not deductible. Similarly, those contributions to the domestic organization described in the third example which are given for the specific purpose of being turned over to the foreign organization are held to be nondeductible.

On the other hand, contributions received by the domestic organization described in the fourth example will not be earmarked in any manner, and use of such contributions will be subject to control by the domestic organization. Consequently, the domestic organization is considered to be the recipient of such contributions for purposes of applying section 170 (c) of the Code. Similarly, the domestic organization described in the fifth example is considered to be the real beneficiary of contributions it receives for transmission to the foreign organization. Since the foreign organization is merely an administrative arm of the domestic organization, the fact that contributions are ultimately paid over to the foreign organization does not require a conclusion that the domestic organization is not the real recipient of those contributions. Accordingly, contributions by individuals to the domestic organizations described in the fourth and fifth examples are considered to be deductible.

Pursuant to the authority contained in section 7805 (b) of the Code, the principles stated herein will not be applied to disallow deductions for contributions made to a charitable organization prior to December 9, 1963, the date of publication of this Revenue Ruling, if those contributions otherwise would have been deductible under an outstanding ruling or determination letter.

In Revenue Ruling 79-81, 1979 -1 C.B. 107, students at a religious educational institution had their tuition paid by sponsors. In many cases, the sponsor was the student's parent. The sponsors signed a commitment form that set the contribution amount, the payment schedule and indicated the names of the sponsor and the student. There was also a space provided on the payment envelopes for the student's name. The commitment form provided that contributions were nonrefundable and that the use of the money was solely at the discretion of the organization. The Ruling held that a charitable contribution deduction was not allowable because deductibility required both full control by the organization and the intent by the donor to benefit the charity and



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not a particular recipient. The commitment form and the envelopes indicated that the payments were designated for the benefit of particular students. The Ruling stated that the control the organization had over the funds was comparable to the control any school would have over tuition payments received.

In Revenue Ruling 68-484, 1968-2 C.B. 105, the corporation established a scholarship program. The corporation selected universities from which the corporation drew a substantial number of its employees. The universities selected the recipients of the scholarships in their own discretion and there was no employment commitment between the corporation and the scholarship recipients. The Ruling held that for purposes of determining that a contribution is made to or for the use of an organization described in section 170 rather than to a particular individual who ultimately benefits from the contribution, the organization must have full control of the use of the donated funds and the contributors' intent in making the payment must have been to benefit the organization itself and not the individual recipient.

In Revenue Ruling 62-113, 1962-2 C.B. 10, the donor made a cash contribution to a missionary fund that was intended to reimburse missionaries for approved expenses not covered by amounts received from the missionaries' parents, friends, relatives or by personal savings. The donor's son was a missionary and was eligible to receive reimbursements from the fund. Most of the son's support was provided by the donor directly to his son and the donor had previously contributed to the fund. The Ruling held that if the contributions to the missionary fund are earmarked by the donor for a particular individual, they are treated, in effect as gifts to the designated individual and are not deductible. In the Ruling a charitable contribution deduction was allowed because it was established that the donor intended the gift for the organization and not as a gift to an individual.

In Revenue Ruling 61-66, 1961-1 C.B. 19, an individual gave money to a university requiring that it use the money to fund the research project of a particular professor. The university had no discretion over the use of the funds. The Ruling held, in part, that the university was a conduit only and that the real donee was the professor. As a payment to an individual, the gift was not deductible under section 170.

In Revenue Ruling 60-367, 1960-2 C.B. 73, the issue was whether contributions made to a college for the purpose of acquiring or constructing a housing facility for use by a designated fraternity would be allowed as a charitable contribution deduction. The college accepted the designated funds, but only with the understanding that the designation would not restrict or limit the full ownership rights of the college in the property acquired. Based on the facts presented, the Ruling held that the contributions were deductible under section 170.

Revenue Ruling 63-252, 1963-2 C.B. 101 dealt with the deductibility of contributions by individuals to a charity organized in the United States, which thereafter transmits some or all of its funds to a foreign charitable organization. Charitable contributions may be allowed as deductions if the domestic charity does not merely act as a conduit for the foreign charity. The Ruling stated that if an organization is required to turn contributions or any particular contributions it receives to



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another organization, in determining whether such contributions are deductible, it is appropriate to determine whether the ultimate recipient of the contribution is a qualifying organization. Under the law of taxation "A given result at the end of a straight path is not made a different result because reached by following a devious path." Moreover, the requirement that the organization be a domestic organization would be nullified if in the course of transmittal to the foreign organization, the funds came to rest momentarily in a qualifying domestic organization. In such case, the domestic organization is only nominally the donee and the real donee is the ultimate foreign recipient. If the contributions are subject to the control of the domestic organization, the domestic organization is considered the recipient for the purpose of section 170(c).

Revenue Ruling 66-79, 1966-1 C.B. 48, amplifies Revenue Ruling 63-252 to provide that contributions to a domestic charity that are solicited for a specific project of a foreign charitable organization are deductible under section 170 of the Code if the domestic charity has reviewed and approved the project as being in furtherance of its own exempt purposes and has control and discretion as to the use of the contributions. This conclusion is reached because the contributions received by the domestic charity are regarded as for the use of the domestic organization and not the foreign organization receiving the grant from the domestic organization.

Revenue Ruling 66-70, 1966-1 C.B. 5 amplified Revenue Ruling 63-252. The bylaws of the U.S. charitable organization provided that the board of directors would review all requests for funds from other organizations and require that such requests specify the use to which the funds would be put and if the board of directors approve the request,. It also required the grantees to furnish a periodic accounting to ensure that the funds were expended for the purposes which were approved by the board. The board of directors had absolute discretion to refuse to make any grants or contributions or otherwise render financial assistance to or for any of the purposes for which the funds are requested. The bylaws and charters of the organization stated that it may make grants to any organization organized and operated exclusively for charitable purposes within the meaning of section 501(c)(3) and that the organization can be either domestic or foreign. The organization refused to accept contributions so earmarked that they must go the foreign organization. The Ruling held that the domestic corporation may solicit for specific grants which will go the foreign organization when it has reviewed and approved them in furtherance of its purposes. The domestic organization retained control and discretion over the use of the funds so that contributions received by the domestic organization from such solicitations are regarded as for the use of the domestic corporation and not for the organization receiving the grant from the domestic organization.

Revenue Ruling 75-65, 1975-1, C.B. 79, held that when a domestic organization makes grants to foreign charities following review and approval of the specific grant, the foreign organization is an administrative arm of the domestic organization, and contributions to the domestic organization are deductible.

In Davis v. United States, 495 U.S. 472 (1990), the Supreme Court had to determine whether the funds transferred by the taxpayers to their two sons in their individual checking accounts while



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they performed services as full-time, unpaid missionaries for the Church of Jesus Christ of Latter-day Saints were deductible as charitable contributions "to for the use of" the Church, pursuant to section 170. The Court held that there was no evidence that Congress intended the phrase "for the use of" to be interpreted as referring to fiduciary relationships in general or as referring to a type of relationship that gives a qualified organization a reasonable ability to supervise the use of contributed funds. The court concluded that a gift or contribution is to or for the use of a qualified organization when it is held in a legally enforceable trust for the qualified organization or in a similar legal arrangement.

In Tripp v. Commissioner, 337 F.2d 432 (7<sup>th</sup> Cir. 1974), the taxpayer claimed a charitable contribution deduction for payments to a college. In the letter accompanying a payment, the taxpayer stated "I am aware that a donation to a Scholarship Fund is only deductible if it is unspecified, however, if in your opinion and that of the authorities, it could be applied to the advantage of Mr. Robert F. Roble, I think it would be constructive." The Court held that the contribution was earmarked and that the taxpayer intended to benefit the individual and not the institution. Therefore, the charitable contribution deduction was denied.

In Peace v. Commissioner, 43 T.C. 1 (1964), acq. 1965-2 C.B. 6, a case involving contributions to the church for specified missionaries. the court held that the mission had exclusive control under its own policy of both the administration and distribution of the funds donated by the taxpayers. The fact that the taxpayers designated three or four missionaries to be supported by the donations was no more than a manifestation of their desire. The money went into a common pool to be distributed only as the mission determined. The test in each case is whether the organization has full control of the donated funds and discretion as to their use to insure that the funds will be used to carry out the organization's functions and purposes.

In S.E. Thomason v. Commissioner, 2 T.C. 441 (1943), the taxpayer made payments to a boys' school on behalf of a ward of the Illinois Children's Home and Aid Society. The court held, under the predecessor of section 170, that the payments were not contributions to or for the use of the charitable organization, but were gifts for the benefit of a particular individual.

Section 12.01 of Rev. Proc. 2014-9, I.R.B. 2014-2, 281 provides exempt status may be revoke or modified retroactively if the organization omitted or misstated a material fact or operated in a manner materially different from that originally represented.

### **TAXPAYER'S POSITION:**

has not provided a written formal position. However, position can be determined from written responses provided by .

In reviewing all the available information, at times referred to itself as a Bible based church and stated its *"emphasis is to achieve a life-changing experience where being more charitable is the hallmark of one who loves their Lord and is obedient to His commands here on earth."*



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does not believe it needs to have the traditional brick and mortar auditorium to be a church and believes the posting on various websites to get out its word to the virtual community is sufficient. The purpose of is to encourage people, specifically high-dollar taxpayers, to be more charitable and share their wealth.

has also claimed that even if it is not a church, it still may be tax-exempt under section 501(c)(3) of the Internal Revenue Code as a religious, charitable, educational organization, etc. operates several programs that it believes could be seen as furthering exempt purposes, and uses its website to convey helpful information.

does not agree that its officers misused organization funds, stating that *"Those individuals who are authorized to have access to any checking account are trusted to not abuse their responsibility to handle a checking account, exactly the same as any organization."*

also believes that the disbursements and transfers made to and were for legitimate business or charitable purposes, or for reimbursements of expenses relating to project being worked on.

does not agree that its activities improperly served the private interests of its officer, or the individuals making contributions to the organization. purpose is instead to help individuals and businesses become more charitable:

- *"Simply, believes, and preaches that those who have been given much are required to share much. It is a Biblical truth. Which becomes the mantra, " ". Success being defined as those who have much, significance being those who share."* [Response to IDR #5]
- *"I have largely chosen web sites as an inexpensive way to get the message out. It is a very Biblical centered message that would be life changing if it were to be spread far and wide. It is a message the has been around for centuries. And I feel called to share that message any way I can."* [Response to IDR #5]

### **GOVERNMENT'S POSITION:**

- **is not operating as a church within the meaning of section sections 501(c)(3) and 170(b)(1)(A)(i) of the Internal Revenue Code.**

Although received a determination letter in 19XX that it was a "church", ceased some time ago to function as a church and does not meet the "common meaning and usage of the word" as defined in the *De La Salle Institute v. United States*, 195 F. Supp. 891 (N.D.Cal. 1961).

The original founder/president of CEO, , and his spouse Director resigned in the late 19XXs, and since then has not been operating as a church.



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provided a written response to the Notice of Church Inquiry which included information that did not have a place of worship; did not have an established congregation; did not offer regular religious services; and did not have religious education for the young. All of these factors are of "central importance" per the associational test referenced in *American Guidance Foundation, Inc. v. U.S.*, 490 F.Supp. 304 (D.D.C. 1980).

In addition, as shown in the response to the Notice of Church Inquiry and in the information provided for the audit, did not meet most of the Fourteen Criteria the courts addressed in *American Guidance* supra. For those minor criteria which appeared to be met, there is doubt as to the credibility of statements given the inaccurate written statements provided in response to the Notice of Church Inquiry.

For example, claimed two individuals who resided in Utah were performing services for and claimed one of the two in Utah was an ordained minister performing sacerdotal duties. The truth was one person was disabled and had not performed services for ; and the other person has not been actively involved with for years and could not have performed the services listed since he was not a minister/priest and was a member of another church in .

Other information showing non-church status included statements that and both attended another church in and the financial records indicated paid "tithes" to a different church in which could indicate she is a member of that other church. In addition, no one was able to state that held himself out to be a minister. professional experience is listed on resume posted on the website, but that resume does not mention ordination as a minister and serving as a minister of . Nor does the resume state is a church. Finally, no one was aware of any religious/church services offered by and own websites continually make the statement: " is a -year-old, 501(c)(3) faith-based public charity" and does not state is a church.

In the written response to the Notice of Church Inquiry, stated: "The first thing you will notice is that the name " is precisely correct in that there is no attempt to call it a church and it has no location associated with it.

In response to the NCTI, stated if they had one year they could change their operations to more closely resemble a church in the traditional sense. Even though more than a year has passed these written statements were provided, has not changed anything.

- **is not operated exclusively for exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code.**



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At one point in the examination, \_\_\_\_\_ stated \_\_\_\_\_ would most probably not qualify to be a church, but he believed \_\_\_\_\_ was tax-exempt under section 501(c)(3) of the Internal Revenue Code as a religious, charitable, educational organization.

As discussed under the "FACTS" section of this report, \_\_\_\_\_ has failed to establish that its activities were exclusively in furtherance of the purpose stated in section 501(c)(3) of the Internal Revenue Code.

# 1. Inurement

First, an organization will not be regarded as operating exclusively for exempt purposes where any part of the organization's earnings inure to the benefit of private shareholders or individuals. See Treas. Reg. § 1.501(c)(3)-1(c)(1). This refers to individuals having a personal or private interest in the activities of the organization. Treas. Reg. § 501(a)-1(c).

In this case, there are numerous examples of \_\_\_\_\_ and \_\_\_\_\_ receiving or removing cash funds from \_\_\_\_\_ without being able to justify or explain the purpose of the payments. Some examples:

- a) Cash was withdrawn from one of \_\_\_\_\_ business accounts and re-deposited into personal account ( \_\_\_\_\_ Account \_\_\_\_\_ ) such as:

Date	Amount	Withdrawn From Account	Acct #
03/11/20XX	\$	#	
05/13/20XX	\$	# ( )	
06/08/20XX	\$	#	
07/13/20Xx	\$	#	

- b) On-line transfers from \_\_\_\_\_ account ( \_\_\_\_\_ Account \_\_\_\_\_ ) to \_\_\_\_\_ personal account ( \_\_\_\_\_ Account \_\_\_\_\_ ) such as:

Date	Amount
06/29/20XX	\$
06/30/20XX	\$
07/11/20XX	\$
07/29/20XX	\$

- c) Cash withdrawals from \_\_\_\_\_ business accounts that were not re-deposited and no information or documentation provided to establish the purpose for the cash withdrawals. For example, on June 10, 20XX ( ) cash withdrawals (\$ \_\_\_\_\_, \$ \_\_\_\_\_, \$ \_\_\_\_\_ and \$ \_\_\_\_\_) were made from \_\_\_\_\_.



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- d) On 07/13/20XX \$        was withdrawn from        account and part of this was traced to the purchase of a new used vehicle (19XX Lincoln Town Car) for \$        . This vehicle was purchased in, and remained in,        personal name.
- e) \$        was attributed to        travel expenses, but review of the expenses revealed three airline tickets on Southwest Airlines for        to visit her family in        ,        ; several meals in        during the period        was visiting her family; and the majority of the meal receipts were for local (        ) expenses for two meals which appeared to be        and        dining out.

At various times,        attempted to justify the payments as reimbursements for various expenses, but despite several requests from the IRS about the expenses, the precise nature of the transfers of money remains largely unexplained or confusing.

In addition,        and        were the dominant figures with respect to        . During the years under examination, both appear to have been in complete control of operations and finances. Although        cited several other individuals as being involved, communications with these people indicated that were not highly involved or had ceased working with        some time ago. Also telling is the fact that        failed to issue any Forms W-2 or 1099 to        or        during this period, or to file any employment tax returns, despite both receiving various forms of compensation from        . As such,        and        have largely avoided the payment of any income taxes on any of the money they removed from        during this period.

Given        and        various roles as officers and board members, the lack of any other individuals to temper their complete control over        , the lack of records maintained, and its officers/board members consistently changing stories,        inability to justify and document the numerous payments (and other withdrawals and transfers) made to the        is evidence of inurement. Not only should these payments be treated as income to the        , but the logical inference is that these payments were "disguised and unjustified distributions" of        earnings. See Founding Church of Scientology, 412 F.2d at 1197, 1201 ("What emerges from these facts is the inference that the Hubbard family was entitled to make ready personal use of the corporate earnings.").

Accordingly,        is not operated exclusively for exempt purposes because its earnings inured to the benefit of        and        .

## 2. Private benefit

An organization is not operated exclusively for exempt purpose unless it serves a public rather than a private interest. An organization must therefore establish that it is not operated for the benefit of private interests, such as designated individuals or shareholders of the organization.



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In this case,            appears to be primarily operated for the benefit of private, rather than public, interests.

a. Charitable Investment Trusts/Personal (Private) Charities

- i. These were established to allow high-dollar taxpayers to donate to a trust which they, the high-dollar taxpayer, controlled since they were named the "trustee".
- ii. As trustees, the donors were told they could pay themselves a fee (\$     ) an hour, plus expense, to manage the trust.
- iii. These were established as integrated auxiliaries of     and, as stated on the website included the advantage of no requirement to file Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, for its own tax-exempt status and there were "*no Private Foundation Chapter 42 compliance*" restrictions, "*no public charity accountability issues*"

b.

- i.            allowed an investor into a for-profit business,            , to flow funds through bank account to give the investor a \$            tax-deductible donation.
- ii.            retained     % of the invested funds to pay for the personal expenses of

c.

- i. By claiming this project was a fiscally sponsored by            , funds deposited into one of            bank account for the benefit of this project entitled the payer of the funds tax-deductible donations.
- ii. Although represented as a project sponsored by            , this appeared to be a conduit situation based on            serving as a "forwarding agent".
- iii. Received funds were never shown to be used for a tax-exempt purpose, but some of the funds were taken by            to compensate            for her services and to compensate            for use of its name.
- iv. Funds raised as tax-deductible donations contributed for the            project were moved to another bank account rather than used for an exempt purpose.

d.

- i. A tax-deductible donation of \$     was made to     for the purpose of funding a for-profit LLC. No explanation was provided for the payment nor was an exempt purpose established for the payment.
- ii.            retained \$     of the donation to pay for the personal expenses of

e.

- i. As an individual,            made personal loans to the            and     issued tax-deductible acknowledgement receipts for the loans.
- ii.            gave \$     as a donation to     , received a tax-deduction receipt, for a potential charity event benefiting            . Although this event was presented



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as a possibly charity fundraiser, one of the e-mails from a for-profit business stated: "This is charity to promote ( ), , and ." These are not recognized charities and the event would have promoted for-profit business and their products.

- f. and
- i. Even if they may have been entitled to payments from for their services, they seem to have treated like their alter egos. used exempt status essentially as a spring board for any idea (commercial or otherwise) that would come to him. posted information about his other businesses, used it to communicate with interested parties, and made use of the bank accounts, etc. as he saw fit.
  - ii. There were no tax-exempt activities identified even though claimed first they were a church and later stated they may not be operating as a church in the traditional sense, but claimed they had other IRC §501(c)(3) activities.
  - iii. openly discusses on website how exempt status as a church (referred to as a "faith-based public charity") allows anyone who is one of integrated auxiliary to have "access to the typical sources of charity funding"; "...makes an excellent asset holding tax-exempt organization"; "...the licensing of the technology is a tax-exempt form of funding"; and "...makes an excellent endowment investment company, investment earnings are a tax-exempt form of funding"
  - iv. During the pre-examination conference, stated integrated auxiliaries were "departments" of and all income from the integrated auxiliaries were deposited in bank account(s). If this was true, there would not have been an unidentified bank account, not under the control of , as discussed under "FACTS".
  - v. made several contradictory statements such as claiming the for-profit business, , no longer existed and yet current website included hyperlinks to documents.

### 3. Commercial purposes

An organization must serve a tax-exempt purpose, not a for-profit/commercial purpose. Documents secured for the audit indicated used tax-exempt status to promote commercial activities including:

- a. Selling/promoting various tax and business strategies
  - i. Charitable Investment Trusts/Personal (Private) Charities – there is no provision in the Internal Revenue Code for a "personal" or "private" charity and this structure appears to be have been established to avoid the Chapter 42 compliance requirements as well as other public charity transparency requirements.



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- ii. . – This was previously for-profit corporation providing tax and wealth management strategies and it was not performing any tax-exempt activities. The Secretary of State reflects this as permanently revoked and yet, recent website includes links to the documents.
- b. Grant application advice
- i. In an e-mail dated February 13, 20XX, provides instructions to of on “*how to commercialize a grant and use it to make money*”. specifically instructs to get a grant designed for tax-exempt purposes and use it to conduct potentially taxable activities and use it to benefit himself ( ).
- c. Pursuit of for-profit activities
- i. ( ) – This was one of integrated auxiliaries (departments or divisions), but in September 20XX incorporated as a nonprofit corporation. One of the documents reviewed for the audit concerned an e-mail to dated June 17, 20XX concerning for-profit activities and the “*need to qualify as a “public charity” as quickly as possible... could be a very significant player in supporting many other charities.. is clearly our platform and our focus for doing the things we have dreamed of doing for decades.*”
- ii. – stated “ ” was formed as a “consulting company” many years ago and is no longer around, but when presented with a letter sent May 20XX to , Chief Development Officer, of soliciting for-profit business involving Visa Immigration Investment, stated he may have sent the letter, but he never received any income from it.
- iii. and – these were both for-profit businesses that proposed be used for some tax-exempt activities.
- iv. Gold mining projects – This was mentioned in a 20XX e-mail message as a possible activity.
- d. Acting as a “forwarding agent” or “finder’s fees” which has no tax-exempt purposes
- i. – stated original role was to serve as the “forwarding agent” for this foreign project. collected the funds and passed along the proceeds to the person conducting the overseas activities.
- ii. – \$ was received and retained % (\$ ) and forwarded the balance to . Verbally, stated was the “forwarding agent” and in writing stated he did not know much about nor did he know what happened to the \$ .
- iii. Finder fee for services performed for – \$ was paid to for his personal services in putting together the parties for the investment.



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Part of this fee was for  
conduct the for-profit business.

services in locating an acceptable facility to

#### 4. Lack of records/substantiation

##### a. Bank records/prepared spreadsheet

- i. To prepare for the audit, had to go to the bank to obtain the bank statements, but did not request or receive the supporting substantiation (transit documents).
- ii. Using the secured bank statements and listed transactions, prepared a spreadsheet itemizing the income, expenses and miscellaneous transactions
- iii. For some of the items identified on the spreadsheet for a specific purpose, review of the bank statements reflected disbursements in cash and the majority of the time did not have anything to support the use of the cash.

##### b. Receipts/Invoices

- i. Some actual receipts were available for meals, but recordkeeping requirement of IRC §274(d) was not met concerning substantiation requirements.
- ii. Receipts for personal items – such as airfare for to visit family in , – was included in the reconstructed records as business expense.
- iii. When asked to provide the supporting documents for the expenses identified in the bank account for one of the program/project of ( ), was unable to provide any documentation and stated: *“Supporting documentation for the use of funds? I don't have a clue what that means, have never heard of such a thing in years of pretty active work in many different churches. Those individuals who are authorized to have access to any checking account are trusted to not abuse their responsibility to handle a checking account, exactly the same as any organization.”*

##### c. Website

- i. Reviewed website over multi-year period, with the most recent review reflecting the website was updated in 20XX. The website did not reflect any church activities.
- ii. Although claims they conducted other tax-exempt activities, none was observed on the websites reviewed.

##### d. Inconsistent statements – there were several as mentioned throughout the FACTS. A couple of the key ones include:

- i. During the NCTI, provided a written statement submitted on 01/31/20XX that given one-year grace period, they could be in full-compliance with the IRS characteristics of a church. At the 04/18/20XX meeting with , information was provided that had not changed any of its operations.



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- ii. Integrated auxiliary – stated, the “*integrated auxiliary of a church just happens to be the IRS version of a structure for a sub-set of a church activity*” and it was a “department” of . One of the integrated auxiliaries discussed, , was discussed in-depth, and in response to IDR #006, stated “ *was not its own entity. It was nothing more than a project, program, etc. that fit into the overall mission of* .” Although makes this claim, they did not disclose information on the bank account for during the audit and when questioned about the income, expenses and activities of , had no first-hand knowledge about this program/project.
- iii. Church Status – For the audit, represented itself as a church. There were no church activities conducted and stated on its website it was a “faith-based public charity”. Even the resume for posted on the website did not indicate was a church.

## **CONCLUSIONS:**

is no longer operating as a church within the meaning of section sections 501(c)(3) and 170(b)(1)(A)(vi) of the Internal Revenue Code.

In addition, is not operated exclusively for exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code.

As such, is no longer eligible for exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code. The favorable determination letter dated March 7, 19XX is hereby revoked effective January 1, 20XX. Contributions to the Organization are no longer deductible under section 170 of the Internal Revenue Code.

is required to file Forms 1120 for all tax years on or after January 1, 20XX.